

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : SMC-1 : NEW DELHI  
(Through Virtual Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1869/Del/2020  
Assessment Year: 2011-12

Vijay Kumar,  
I-16/28, FF, Pyare Lal Road,  
Bapa nagar, Karol Bagh,  
Central Delhi,  
New Delhi.

Vs. ITO,  
Ward-45(4),  
New Delhi.

PAN:BDVPK2107B

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Shri Rajesh Kumar Dhanesta, Sr.DR
Date of Hearing	:	29.07.2021
Date of Pronouncement	:	29.07.2021

ORDER

This appeal by the assessee is directed against the ex parte order dated 1<sup>st</sup> July, 2019 of the CIT(A)-15, New Delhi, relating to Assessment Year 2011-12.

2. None appeared on behalf of the assessee despite issue of notice through RPAD. Therefore, this appeal is being decided on the basis of material available on record and after hearing the ld. DR.

3. Although a number of grounds have been raised by the assessee, these all relate to the ex parte order of the CIT(A) in confirming the various additions made by the AO.

4. Facts of the case, in brief, are that the assessee is a non-filer. Since information was received that the assessee has made cash deposit of Rs.17,48,425/- in his savings bank account maintained with Punjab National Bank, Gurudwara Road, Karol Bagh, New Delhi, during F.Y. 2010-11, relevant to A.Y. 2011-12, the AO, after recording reasons u/s 147 of the Act, issued notice u/s 148 to the assessee. Since there was no compliance to the notice issued u/s 148, notice u/s 142(1) of the Act was issued on various dates to comply the notice u/s 148. Since there was no compliance from the side of the assessee to statutory notices issued by the AO, the AO proceeded to complete the assessment u/s 144 of the IT Act. Considering the total deposit of Rs.17,58,425/- in the bank account and observing that the assessee used to deposit cash on regular intervals and also made withdrawals through cash/ATM/cheque, the AO adopted profit rate of 20% of the total credit transactions of Rs.17,58,425/- and determined the total income of the assessee at Rs.3,49,685/-.

5. Since the assessee did not appear before the CIT(A) despite three statutory notices issued by him, the Id.CIT(A), dismissed the appeal filed by the assessee and sustained the addition made by the AO.

6. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

7. I have heard the ld. DR and perused record. I find, due to non-appearance of the assessee before the AO, despite number of opportunities granted, the AO adopted 20% profit on the deposits of Rs.17,58,425/- after considering various cash withdrawals, ATM withdrawals and cheque payments. I find, the ld.CIT(A) dismissed the appeal filed by the assessee and upheld the addition made by the AO since there was no compliance before him to the three statutory notices issued by his office. It is the submission of the assessee in the grounds of appeal that no proper opportunity was granted to explain his case. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and substantiate his case without seeking any adjournment under any pretext, failing which the ld.CIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court at the time of hearing itself, i.e., on 29.07.2021.

Sd/-  
(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 29<sup>th</sup> July, 2021.

dk

Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi