

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1766/Del/2020  
Assessment Year: 2012-13

Pradeep Goel & Son (HUF),  
115, Sterlite Apartments,  
Sector 14 Extension,  
Rohini,  
New Delhi.

Vs. ITO,  
Ward-35(8),  
New Delhi.

PAN: AAAHP3004K

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Shri R.K. Gupta, Sr.DR
Date of Hearing	:	04.08.2021
Date of Pronouncement	:	04.08.2021

ORDER

This appeal by the assessee is directed against the ex parte order dated 31<sup>st</sup> August, 2020 of the CIT(A), Delhi, relating to Assessment Year 2012-13.

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

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

Rs.12,68,590/- made by the AO in the order passed u/s 144 r.w. section 147 of the IT Act, 1961.

4. Facts of the case, in brief, are that the assessee HUF filed its return of income on 30<sup>th</sup> March, 2013 declaring the total income at Rs.1,79,440/-. The case of assessee was reopened after recording reasons as per the provisions of section 147 of the IT Act. In response to the notice u/s 148 dated 31.03.2019, there was no response from the side of the assessee. Subsequently notice u/s 142(1) was issued which also remained uncomplied with. The AO, therefore, proceeded to complete the assessment as per the provisions of section 144 of the Act. During the assessment proceedings he noted that a survey u/s 133A was carried out in cases of Shri Ashok Kumar Gupta, Shri Sandeep Gupta and Shri Anuj Kumar Gupta on 30.11.2018. During the said survey proceedings, they have admitted that they are indulged in giving both purchase and sale related accommodation entries through their paper/dummy concerns i.e., M/s Gayatri Maa Enterprises, M/s Ridhi Sidhi Impex and M/s Parth International, etc. Since the assessee is a beneficiary of M/s Gayatri Maa Enterprises and taken accommodation entry amounting to Rs.12,68,590/- during the year under consideration, therefore, in absence of any details filed in this behalf, the AO held that the same amount remained unexplained. He, therefore, made addition of the same u/s 68 and determined the total income of the assessee at Rs.14,48,030/- as against the returned income of Rs.1,79,440/-. Since the assessee did not appear before the CIT(A)

despite number of opportunities granted, the ld.CIT(A) dismissed the appeal filed by the assessee.

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

6. I have heard the ld. DR and perused the record. It is an admitted fact that due to non-appearance before the AO to explain the accommodation entry of Rs.12,68,590/-, the AO, invoking the provisions of section 68 of the Act made addition of Rs.12,68,590/- to the total income of the assessee in the order passed u/s 144 of the Act. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the CIT(A) in the ex parte order passed by him, sustained the addition made by the AO. 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 more opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and substantiate its 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.

7. 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 04.08.2021.

Sd/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 4<sup>th</sup> August, 2021.

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

Asstt. Registrar, ITAT, New Delhi