

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1154/Del/2020
Assessment Year: 2011-12

Rajinder Kumar,
Village-Tusang, PO Kalsora,
Karnal,
Haryana.

Vs. ACIT,
Circle Karnal.

PAN: AUDPK1280H

(Appellant)

(Respondent)

Assessee by	:	Shri Neeraj Garg, CA & Shri Rajinder Kumar, Assessee
Revenue by	:	Shri R.K. Gupta, Sr.DR
Date of Hearing	:	26.08.2021
Date of Pronouncement	:	26.08.2021

ORDER

This appeal filed by the assessee is directed against the ex parte order dated 24.01.2020 of the CIT(A), Karnal, relating to Assessment Year 2011-12.

2. 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.

3. Facts of the case, in brief, are that the assessee is an individual and was a non-filer of income-tax return. Information was obtained in this case by the AO that the assessee has made cash deposit of Rs.29,20,000/- in his savings bank account maintained with Oriental Bank of Commerce, Karnal, during F.Y. 2010-11. The AO reopened the case after recording reasons and issued notice u/s 148 of the Act. However, there was no response to the said notice by the assessee. Neither he filed the return of income in response to the same nor attended the proceedings before the AO. The AO obtained information u/s 133(6) from Oriental Bank of Commerce Indri, calling for the KYC details along with bank statement of the assessee. From the details so obtained, he noted that the assessee has deposited cash of Rs.29,20,000/-. Since the assessee did not appear before him to explain the source of such huge cash deposit of Rs.29,20,000/-, the AO made addition of the same u/s 68 of the Act. He also added bank interest of Rs.3,908/- to the total income of the assessee and determined the total income at Rs.29,23,910/-. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the Id.CIT(A), in his ex parte order, upheld the addition made by the AO.

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

5. The Id. Counsel for the assessee, referring to the various prescriptions issued by the doctor, submitted that since the assessee was not keeping well, he could not appear before the CIT(A). Further, the Id.CIT(A) has dismissed the appeal for non-

prosecution and has not decided the issue on merit. He submitted that in the interest of justice, the assessee should be given an opportunity to substantiate his case either before the AO or before the CIT(A).

6. The ld. DR, on the other hand, strongly opposed the arguments advanced by the ld. Counsel for the assessee and submitted that the assessee has scant regard for the statutory authorities and, therefore, the order of the CIT(A) should be upheld.

7. I have heard the rival arguments made by both the sides and perused the record. It is an admitted fact that due to non-compliance to the statutory notices, the AO, in his ex parte order passed u/s 144/147 of the Act, determined the total income of the assessee at Rs.29,23,910/- wherein he made addition of Rs.29,20,000/- as unexplained cash deposit and Rs.3,908/- as bank interest. I find, due to non-appearance of the assessee before the CIT(A) despite number of opportunities granted, the ld.CIT(A), in his ex parte order, upheld the addition made by the AO. It is the submission of the ld. Counsel for the assessee that given an opportunity, the assessee is in a position to explain the source of cash deposits in the bank account. 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) 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.

The decision was pronounced in the open court on 26.08.2021.

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

Dated: 26th August, 2021.

Shekhar, Sr. PS

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

Asstt. Registrar, ITAT, New Delhi