

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.9347/Del/2019  
Assessment Year: 2011-12

Bhagat Singh,  
516, Panchayat Ghar Mohalla,  
Bharathal Village,  
District South West,  
New Delhi.

Vs. ITO,  
Ward-44(4),  
New Delhi.

PAN: CAGPS0724M

(Appellant)

(Respondent)

Assessee by	:	Shri Sandeep Kumar Batra, Advocate
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 07<sup>th</sup> June, 2019 of the CIT(A)-15, New Delhi, relating to Assessment Year 2011-12.

2. There is a delay of 113 days in filing of the appeal for which the assessee has filed an affidavit along with an application seeking condonation of the delay. The reason for such delay has been explained by the ld. Counsel for the assessee who has owned up the responsibility and has stated in his affidavit that due to sudden demise of his senior on 3<sup>rd</sup> July, 2019, his office was closed. Subsequently, the records were to

be shifted during which the file got misplaced and, therefore, there was a delay in filing of the appeal before the Tribunal.

3. After considering the submissions made by both the sides, the delay in filing of the appeal is condoned and the appeal is admitted for adjudication.

4. 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 addition of Rs.17,48,000/- made by the AO to the returned income of Rs.1,63,850/-.

5. Facts of the case, in brief, are that the assessee is an individual and was a non-filer of income-tax return. On the basis of information received that the assessee has made cash deposit of Rs.17,48,000/- on various dates in his bank account, the case of the assessee was reopened under section 147 of the Act after recording reasons and notice u/s 148 was issued to the assessee. Since there was no compliance to the statutory notice, the AO issued notice u/s 133(6) of the Act to the Branch Manager of Syndicate Bank, New Delhi, who provided the details of cash deposits made by the assessee in his bank account. Although notices u/s 142(1) of the IT Act were issued to the assessee on various dates, however, these were not complied with. Subsequently, the assessee filed his return of income on 02.11.2018 declaring the total income at Rs.1,63,850/-. Since the assessee could not explain the source of cash deposit of Rs.17,48,000/- with evidence to the satisfaction of the AO, the AO treated the same as income of the assessee from undisclosed sources and made addition of the same to the

total income of the assessee. Since there was no compliance before the CIT(A), the ld.CIT(A), in his ex parte order, upheld the addition made by the AO.

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

7. The ld. Counsel for the assessee submitted that due to some misunderstanding the case remained unrepresented before CIT(A). He submitted that in the interest of justice the assessee should be given one last opportunity to substantiate his case.

8. The ld. DR, on the other hand, drew the attention of the bench to the order of the AO and the CIT(A) and submitted that there was no compliance from the side of the assessee to the statutory notices and, therefore, the addition made by the AO and sustained by the CIT(A) should be upheld.

9. I have heard the rival arguments made by both the sides and perused the record. It is an admitted fact that due to non-filing of requisite details to explain the source of deposit of Rs.17,48,000/- in the bank account maintained with Syndicate Bank, the AO made addition of the same to the total income of the assessee. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the ld.CIT(A) was constrained to sustain 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 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 Id.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.

10. 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: 26<sup>th</sup> August, 2021.

*Shekhar, Sr. PS*

Copy forwarded to

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

Asstt. Registrar, ITAT, New Delhi