

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "F": NEW DELHI]**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA. No. 6019/Del/2017
(Assessment Year: 2010-11)

Shri Rajvir Singh, Gurgaon, C/o. SSAR & Associates, Chartered Accountants, 4852/24, 1 st Floor, Near Sanjivan Hospital, Ansari Road, Darya Ganj, New Delhi-110002. PAN: ABAPS1501R	Vs.	Income Tax Officer, Ward : 62 (2), New Delhi.
(Appellant)		(Respondent)

Assessee by :	None;
Department by:	Ms. Kirti Sankratyayan, Sr. D.R.;
Date of Hearing :	7/09/2021
Date of pronouncement :	7/10/2021

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the assessee against the order passed by the Commissioner of Income Tax (Appeals)-20, New Delhi, dated 26.07.2017 for assessment year 2010-11.
2. The grounds raised by the assessee are as under:-
 - “1. That both the lower authorities grossly erred in making and sustaining the assessment without providing the proper opportunity of hearing.
 2. That the Ld. AO was illegal and unjustified in making the reassessment without providing the copy of reasons recorded u/s 147 of the Act and also illegally making the reassessment u/s 147 on the basis of information received from the Serious Fraud Investigation Office and others without applying the mind.
 3. That the reassessment proceedings are bad in law and deserves to be quashed as per the provisions of the Income Tax Act.
 4. That under the facts and circumstances of the case, the additions made

by the Ld. AO and as sustained by the Ld. CIT (Appeals) deserves to be quashed and deleted.

5. That the appellant craves leave to add, amend, alter or withdraw any ground of appeal at the time of hearing with the permission of the Hon'ble ITAT, Delhi Bench. “

3. The ld. CIT (Appeals) dismissed the appeal filed by the assessee against the assessment order passed under Section 147 read with Section 144 of the Income Tax Act, 1961 (the Act) dated 17.03.2016 by the ld. Assessing Officer – Income Tax Officer, Ward 62(2), New Delhi. The ld. CIT (Appeals) dismissed the appeal of the assessee , as on three occasions the appeal before her was fixed and on one occasion adjournment request was made and on subsequent occasion none appeared. Therefore, she dismissed the appeal of the assessee for non-prosecution. Further, in para 4.3 she confirmed the addition of Rs.2.50 crores as none appeared before the Assessing Officer and before her. Therefore, in substance this appeal is dismissed on account of non-prosecution. Hence assessee is in appeal before us.
4. Despite the fact that on 1 July 2021 when this matter was called for hearing Mr Venkatesh Chaurasia, advocate on behalf of the assessee appeared and the matter was adjourned on 7/9/2021 in both the parties were informed. Despite this on 7/9/2021 when this matter was called for hearing there was no representation from the assessee. Same is the attitude of the assessee before the lower authorities. The assessee did not appear before the assessing officer as well as before the learned CIT – A. Therefore this appeal is decided on the merits of the case as per information available on record.
5. Briefly stated the fact shows that assessee is an Individual, who filed his return of income on 13.09.2010 declaring an income of Rs.6,66,550/-. The assessment was completed under Section 143(3) of the Act on 28.02.2013 at Rs.9,28,860/-. After that by the report of the Serious Fraud Investigation Office by the complaint filed by the assessee with Commissioner of Appeals, Economic Offences Wing, New Delhi, an information came into possession of the ld. Assessing Officer that assessee has made a payment of Rs.2.50 crores in cash to M/s. Gennext Promoters Pvt. Ltd. on February 2009 to April, 2010. There is an

acknowledgement of the same in the form of an agreement with the assessee dated 30th June, 2012 and post-dated cheques were issued to the assessee for Rs.4.40 crores. Therefore, notice under Section 148 was issued on 4.07.2014. Neither the return was filed nor were any notices responded to. Therefore, the assessment under Section 144 of the Act was made by making the above addition of Rs.2.50 crores vide order dated 28.02.2013. The assessee preferred an appeal before the Id. CIT (Appeals), which was dismissed for non-prosecution. The Id. CIT (Appeals) has not decided the issue on the merits of the case, but has merely reproduced the contentions of the Id. Assessing Officer. Therefore, in the interest of justice, we set aside this matter back to the file of the Id. CIT (Appeals) to decide the issue on its own merits.

6. Accordingly, the appeal of the assessee is allowed, for statistical purposes and restored back to the file of the Id. CIT (Appeals).

Order pronounced in the open court on : 7/10/2021.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated : 7/10/2021.

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1. Appellant;
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	7.10.2021
Date on which the typed draft is placed before the dictating member	7.10.2021

Date on which the typed draft is placed before the other member	7.10.2021
Date on which the approved draft comes to the Sr. PS/ PS	7.10.2021
Date on which the fair order is placed before the dictating member for pronouncement	7.10.2021
Date on which the fair order comes back to the Sr. PS/ PS	7.10.2021
Date on which the final order is uploaded on the website of ITAT	7.10.2021
date on which the file goes to the Bench Clerk	7.10.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	