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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.5200/Del/2019
Assessment Year: 2013-14

Shyam Sunder Saini, H-960, Palam Village, Ramphal Chow, Ext. Part I, Pochanpur Road, Harijan Basti, New Delhi.	Vs.	ITO, Ward 44(5), New Delhi.

PAN: AJGPS8417G

(Appellant) (Respondent)

Assessee by	:	Shri Pankaj Kumar Vats, CA
Revenue by	:	Shri R.K. Gupta, Sr. DR
Date of Hearing	:	13.10.2021
Date of Pronouncement	:	13.10.2021

ORDER

This appeal filed by the assessee is directed against the order dated 4th February, 2019 of the CIT(A)-15, Delhi, relating to Assessment Year 2013-14.

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 sustaining the various additions/disallowances made by the AO amounting to Rs.24,58,631/-.

3 Facts of the case, in brief, are that the assessee is an individual and is the sole proprietor of M/s Shyam Motors which deals in trading of batteries, helmets,

e-rickshaw and other related items. He filed his return of income on 29th September, 2013 declaring income of Rs.3,61,460/-. During the course of assessment proceedings, the AO noted that the assessee has received interest income of Rs.13,205/- which is as per Form No.26AS. However, the assessee has not declared the same in his return of income. Therefore, the AO made addition of the same to the total income of the assessee. Similarly, the AO noted that the assessee has made cash deposit of Rs.6,66,398/- in his savings bank account maintained with Central Bank of India, Mohammad Pur, new Delhi. In absence of any reply from the assessee to explain the source of such deposit, the AO made addition of the same.

4. The assessee has also shown various creditors from whom the AO obtained information u/s 133(6) and noted that there is difference of Rs.82,785/- in the balance confirmed by them and the balance shown by the assessee. In absence of any satisfactory reply, the AO made addition of the same. Further, in absence of any evidence to his satisfaction regarding the genuineness of purchases made from M/s Dashmesh Overseas India (Rs.2,57,569/-) and M/s XS Bikes (Rs.14,29,843/-) both totaling to Rs.16,87,412/-, the AO made addition of the same. In absence of any evidence to his satisfaction, the AO disallowed 20% of the expenses out of petrol & gas expenses and telephone & Mobiles expenses and made addition of Rs.6,333/-. He also disallowed depreciation on motor car and

bikes amounting to Rs.2,500/-. Thus, the AO determined the total income of the assessee at Rs.28,38,280/- as against the returned income of Rs.3,80,000/-.

5. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the ld.CIT(A), following the decision of the Hon'ble M.P. High Court in the case of Estate of Tukojirao Holkar vs. CWT, reported in 223 ITR 480, dismissed the appeal filed by the assessee.

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

7. I have heard the rival arguments made both the sides and perused the record. It is an admitted fact that due to non-appearance before the CIT(A) despite number of opportunities granted, the ld.CIT(A) was constrained to pass an ex parte order sustaining the various additions/disallowances made by the AO. It is the submission of the ld. Counsel for the assessee that in the interest of justice, the assessee should be given an opportunity to substantiate his case before the CIT(A). 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 appeal 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.

The decision was pronounced in the open court on 13.10.2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 13th October, 2021

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi