

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
AND  
SHRI KULDIP SINGH, JUDICIAL MEMBER  
[Through Video Conferencing]**

ITA No.6341/Del/2018  
Assessment Year: 2010-11

Sh. Vishesh Gupta, C-3/28-29, Sector-15, Rohini, New Delhi	<b>Vs.</b>	DCIT, Central Circle-19, New Delhi
<b>PAN :AGJPG0058P</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	None
Respondent by	Sh. Anil Gandhi, Sr.DR

Date of hearing	12.10.2021
Date of pronouncement	14.10.2021

**ORDER**

**PER O.P. KANT, AM:**

This appeal by the assessee is directed against the order dated 14.12.2016 passed by learned Commissioner of Income Tax (Appeals)-27, New Delhi, for assessment year 2010-11.

**2.** Brief facts of the case as culled out from the orders of the lower authorities are that the assessee, an individual, is engaged in the business of trading in metals and scrap. A search and seizure operation u/s 132 of the Income-tax Act, 1961 (in short 'the Act') was conducted by, the Investigation Wing of the

department in Vishesh Gupta and Rakesh Gupta group of cases on 26.04.2010. The case was selected for scrutiny and assessment was completed on 28.03.2013 at a total income of Rs.37,32,730/- as against the returned income of Rs.2,34,850/- wherein the Assessing Officer made an addition of Rs.34,97,879/- on account of commission income earned by the appellant from providing accommodation entries to various parties, after excluding the expenses of 0.5% amounting to Rs.3,38,286/- (0.5% of Rs.6,76,57,224/- which is the total amount of transactions of accommodation entries) which would have been incurred by the assessee for earning the said commission income. Aggrieved, the assessee filed appeal before the learned CIT(A). The learned CIT(A) observed that the assessee was given five opportunities to represent his case but nobody attended the proceedings, nor filed adjournment application, therefore, it is presumed that the assessee has nothing to do with the appeal against the additions made by the Assessing Officer. Accordingly, the learned CIT(A) dismissed the appeal *ex-parte* without deciding on merit.

**3.** None present on behalf of the assessee. We have heard learned DR through Video Conferencing and perused the relevant material on record.

**3.** On perusal of impugned order, we find that the assessee did not file any written submission, nor any material was produced before the learned CIT(A) to support its case, despite reasonable opportunity being provided to him, and the learned CIT(A) dismissed the appeal of the assessee *ex-parte*. We are of the opinion that in terms of section 250(6) of the Act the Ld. CIT(A) is

required to dispose off the appeal on merit with his reasoning even in the case of non-representation by the assessee. As the Ld. CIT(A) has not disposed off the appeal on merit with a reasoned order, we set aside the order of the Ld. CIT(A) and restore the appeal back to Ld. CIT(A) to decide the same with reasoned and speaking order after allowing reasonable opportunity of being heard to the assessee.

**4.** In result, the appeal of the assessee is allowed for statistical purposes.

***Order pronounced in the open court on 14<sup>th</sup> October, 2021***

***Sd/-***  
**(KULDIP SINGH)**  
**JUDICIAL MEMBER**

***Sd/-***  
**(O.P. KANT)**  
**ACCOUNTANT MEMBER**

Dated: 14<sup>th</sup> October, 2021.

RK/-(DTC)

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi