

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "SMC-1" BENCH: NEW DELHI**

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER**

**ITA No.1978/Del/2020  
[Assessment Year : 2016-17]**

Deepak Kumar, RZ-24, Gali No.9, Okhla, Indira Park, Delhi-110025. PAN-ATJPK4183A	vs	ITO, Ward-44(3), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	None	
<b>Respondent by</b>	Shri Om Prakash, Sr.DR	
<b>Date of Hearing</b>	15.11.2021	
<b>Date of Pronouncement</b>	18.11.2021	

**ORDER**

**PER R.K.PANDA, AM :**

This appeal by the assessee for the assessment year 2016-17 is directed against the ex-parte order of Ld. CIT(A)-15, Delhi dated 03.07.2019.

2. None appeared on behalf of the assessee at the time of hearing. The notice sent by the Registry through RPAD as per address given by the assessee was returned unserved by the Postal Authority. Therefore, the appeal is being decided on the basis of material available on record and after hearing Ld. Sr. DR.
3. The assessee in the ground of appeal has challenged the order of Ld.CIT(A) in confirming the addition of Rs.13,60,750/- made by the Assessing Officer.
4. There is a delay of 219 days in filing of this appeal. An application requesting for condonation of delay was filed wherein it is stated that due to lockdown and the pandemic, the assessee could not file the appeal within time.

After considering the contents of the condonation application and after hearing Ld. Sr. DR, delay in filing of the appeal is condoned.

5. Facts of the case, in brief, are that the assessee is an individual and derives income from export business of handicraft items. He e-filed his return of income on 14.02.2017, declaring income of Rs.3,13,690/-. During the course of assessment proceedings, the Assessing Officer noted that as per information available, the assessee has made export of Rs.1,73,47,871/- and has received export incentives of Rs.11,29,408/-. However, the assessee has shown income of Rs.3,47,689/- (excluding Chapter-VIA deduction). He therefore, asked the assessee to explain the reason for this difference and also asked to explain as to why profit should not be estimated @ 8% on the gross receipt of Rs.1,84,77,279/-. He also issued summons u/s 131 of the Act on 01.11.2018 to the assessee. The assessee appeared before the Assessing Officer and his statement was recorded on oath. In the statement, the assessee submitted that after deducting of expenses, he earned profit @ 1% to 1.5% on each shipment. Rejecting the various explanation given by the assessee, the Assessing Officer determined the profit @ 8% on difference of gross receipts of Rs.1,70,09,389/- which comes to Rs.13,60,750/-. The Assessing Officer accordingly made addition of the same to the total income of the assessee and determined the income at Rs.16,74,440/-.

6. In appeal, the assessee did not appear before Ld.CIT(A) despite number of opportunities granted by him. Ld.CIT(A) therefore, dismissed the appeal filed by the assessee in absence of any further details filed before him to substantiate the case of the assessee.

6.1. Aggrieved with such order of Ld.CIT(A), the assessee filed appeal before this Tribunal.

7. I have heard the Ld. Sr. DR and perused the material available on record. It is an admitted fact that due to non-appearance of the assessee, Ld.CIT(A) decided the appeal ex-parte and sustained the addition made by the Assessing Officer in absence of any evidence before him as to how the order of the Assessing Officer is incorrect. Considering the totality of the facts and circumstances of the case and in the interest of justice, I deem it proper to restore the issue to the file of Ld.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 hereby directed to appear before Ld.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 in this appeal are accordingly, allowed for statistical purposes.

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

Order pronounced in the open Court on 18<sup>th</sup> November, 2021.

**Sd/-**

**(R.K.PANDA)**  
**ACCOUNTANT MEMBER**

*Dated- 18.11.2021*

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI