

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “SMC” BENCH: NEW DELHI**

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.5998/Del/2019**

**[Assessment Year : 2015-16]**

Saju Kozhikkadan Paul, 14, Type 3, AIIMS Quarters, Ayurvigyan Nagar, Andrews Ganj P.O., Delhi -110049. PAN-AEDPP9397J	vs	ITO, Ward-53(5), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	None	
<b>Respondent by</b>	Shri Sanjay Kumar, Sr.DR	
<b>Date of Hearing</b>	24.02.2022	
<b>Date of Pronouncement</b>	20.04.2022	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee for the assessment year 2015-16 is directed against the order of Ld. CIT(A)-18, New Delhi dated 16.05.2019. The assessee has raised following grounds of appeal:-

1. *“The order of the learned Commissioner of Income Tax (Appeals) is contrary to law, facts and circumstances of the case to the extent unfavorable to the appellant and hence not sustainable.*
2. *The learned Commissioner of Income Tax (Appeals) had disregarded the fact that Assessing Officer had completed the assessment on the basis of an invalid return.*
3. *The Commissioner of Income Tax (Appeals) had not considered the fact that there is no provision in the Act to pass an order declaring a return as defective; and a defect cannot be ignored by the assessing officer at his discretion.*
4. *The Learned Commissioner of Income Tax (Appeals) erred in appreciating the fact that the Assessing Officer proceeded with the*

*return of income which is a non-est one and hence the assessment is void abinitio.*

5. *The Commissioner of Income Tax (Appeals) has not appreciated the fact that a valid return filed by the appellant subsequent to the notice of defect was not considered by the assessing officer.*
6. *For these and such other reasons that may be urged at the time of hearing, the appeal be allowed.*
7. *It is prayed that the appeal be allowed accepting the contentions of the appellant.”*

2. At the time of hearing, no one appeared on behalf of the assessee. The notice sent by the Registry through speed post has returned back unserved by the Postal authority with the comment “left”. The assessee has not provided any other address to the Registry. Therefore, the appeal is taken up for hearing in the absence of the assessee.

### **FACTS OF THE CASE**

3. Facts giving rise to the present appeal are that the assessee filed return of income showing net income of Rs.NIL on 31.08.2015. The case of the assessee was taken up for limited scrutiny under CASS. Notice u/s 143(2) of the Income Tax Act, 1961 (“the Act”) was issued to the assessee. Before Assessing Officer (“AO”), an objection was raised regarding validity of the return of income. The AO stated that as per ITD, the income tax return of the assessee was shown as a “Valid” return. The AO during the course of assessment proceedings, noticed that as per the income tax return, total turnover of Rs.40,84,256/- has been declared and a business loss of Rs.27,79,859/- had been shown out of which Rs.2,89,011/- had been set off with short term capital gain and income from other sources. The assessee was called upon to explain the claim regarding the loss. In respect of the same, the assessee had submitted a revised computation

thereby, the income was revised from Rs.NIL to Rs.5,66,280/-. The AO thereafter, assessed the income at Rs.5,75,750/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A) who after considering the submissions, partly allowed the appeal of the assessee. Thereby, Ld.CIT(A) directed the AO to treat the figure of Rs.27,22,275/- as turnover from liaison services and to compute the income @ 8% of total turnover.

5. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

6. Ground No.1 of assessee's appeal is general in nature, needs no separate adjudication.

7. Ground Nos. 2 to 5 are against the validity of assessment. It is stated by the assessee that the assessee is assessed to tax and filed his return of income for the Assessment Year 2015-16 on 31.08.2015 declaring income at Rs.NIL. The AO completed assessment at Rs.5,75,750/- u/s 143(3) of the Act. It is stated that the assessee was informed vide a communication from Central Processing Centre ("CPC") intimating that the return filed by the assessee was defective. It is stated that since return was not valid therefore, the assessment proceedings completed by the AO, is vitiated. Hence, no assessment could be framed u/s 143(3) of the Act on the basis of such defective return.

8. Ld. Sr. DR opposed these submissions of the assessee as made in the form of the statements of the facts of the case and contended that the objection of the assessee are misplaced. He submitted that the AO has categorically stated that as per ITD, the return was found to be valid.

9. I have heard Ld. Sr. DR and perused the material available on record and gone through the orders of the authorities below. The objection of the assessee is that the proceedings completed on the basis of defective return of income. It is stated that the income tax return on the basis of which assessment u/s 143(3) of the Act was completed and was found to be valid. The assessee has not furnished any contrary material suggesting the findings of the authorities below as incorrect. Therefore, in the absence of such material, I do not see any reason to interfere in the finding of authorities below, the same is hereby upheld. Thus, Grounds raised by the assessee are dismissed.

10. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 20<sup>th</sup> April, 2022.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI