

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI

(DELHI BENCH 'E' : NEW DELHI)

BEFORE DR. B.R.R.KUMAR, ACCOUNTANT MEMBER

AND

SH.ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.2165/Del/2019
(Assessment Year : 2009-10)

Shri MAM RAJ SINGH, J-1A, SANJAY NAGAR, SECTOR-23, GHAZIABAD- 201002 PAN : ASLPS4797H	Vs.	ITO, WARD-1(4), GHAZIABAD.
(APPELLANT)		(RESPONDENT)

Assessee by	Sh. Anurag Jain, CA
Revenue by	Ms. Rinku Singh, Sr. DR

Date of hearing:	05.05.2022
Date of Pronouncement:	05.05.2022

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been preferred by the assessee against order dated 31.12.2018 in appeal no. 389/57 passed by Commissioner of Income Tax (Appeals), Ghaziabad in appeal pending before it against order dated 16.11.2016 in assessment u/s 147/144 of the Income Tax Act, 1961 passed by ITO, W-1(4), Ghaziabad.

2. Heard and perused the record. The impugned order dated 31.12.2018 shows that the Ld. CIT(A) has dismissed the appeal treating it non-est and defective as it was filed with the delay of 11 months.

3. The assessee is an individual who had not filed any return of income but based upon deposit of cash amounting to Rs. 82,17,500/- in the Savings Bank Account during the financial year 2008-09 relevant to assessment year 2009-10 was assessed to tax by invoking Section 69A of the Act. The Ld. CIT(A) has been over technical in expecting explanation of reasons for delay to precision in filing appeal. Where assessee is an individual and not filing any tax returns previously, his claim of not being aware of the assessment order inspite of due diligence should not be washed away on the basis that assessee failed to prove that certified copies of the order have been taken for non-receipt of order.

4. Accordingly, the appeal is allowed and the record is restored to the files of Ld. CIT(A) with direction to allow the delay in filing the appeal and proceed to dispose off the appeal of assessee on merits after giving due notice and opportunity of hearing.

Order announced in open court on conclusion of hearing dated 5th May, 2022.

Sd/-

(B.R.R.KUMAR)
ACCOUNTANT MEMBER

Date:-05.05.2022

Binita, Sr.P.S

Copy forwarded to:

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

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI