

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI**

**(DELHI BENCH 'E' : NEW DELHI)**

**BEFORE SH. G.S.PANNU, HON'BLE PRESIDENT  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.596/Del/2018  
(Assessment Year : 2009-10)

Mr. Navindra Pal Singh G-6, Yamunapuram, Bulandshahr, 203001 PAN : ALSPTS7149H	Vs.	ITO, Ward-3(3), Bulandshahr
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Assessee by	None
Revenue by	Ms. Garima Sharma, Sr. DR

Date of hearing:	26.05.2022
Date of Pronouncement:	15.06.2022

**ORDER**

**PER ANUBHAV SHARMA, JM:**

The appeal has been filed by the assessee against order dated 30.10.2017 in appeal no. 153/2016-17 in assessment year 2009-10 passed by Commissioner of Income Tax (Appeal), Aligarh (hereinafter referred to as the First Appellate Authority in short 'Ld. F.A.A.') in regard to the appeal before it arising out of assessment order dated 22.09.2016 u/s 144/147 of the Income Tax Act passed by Income Tax Officer, Ward-3(3), Bulandshahr (hereinafter referred to as the Assessing Officer 'AO').

2. The facts in brief are Ld. AO had information of deposit of Rs. 90,25,375/- by the assessee in his bank account, therefore notice u/s 148 was issued followed by notice u/s 142(1). As, none appeared notice u/s 144 was issued and as non-appeared the amount of Rs. 90,25,375/- was added u/s 68 of the Act considering same as unexplained cash deposit. In appeal, however inspite of raising as many as 16 grounds of appeal as non-appeared, it was decided *ex parte*.

3. Now, the assessee has approached the Tribunal raising following grounds :-

*“1. That on the facts and in the circumstances of the case and in law, Ld. CIT(A) erred in dismissing the appeal for want of ex parte order.*

*2. That the appellant craves leave to add/alter any/all grounds of appeal before or at the time of hearing of the appeal.”*

4. As the case was called for hearing on 26.05.2022, non-appeared for the appellant-assessee. Record shows earlier on 07.03.2022 also non-appeared and the Bench had directed to issue notice through DR. A service of notice report has been filed on behalf of the department along with the acknowledgement and the same shows assessee was served notice on 05.05.2022. Still none has appeared for the assessee. It appears that the assessee is not interested to prosecute the appeal. Accordingly, Ld. DR was heard who supported the order of ld. CIT(A).

5. Giving thoughtful consideration of matter on record, it can be observed from para no. 4 of the order of ld. CIT(A) that the first notice of

hearing was issued for 04.09.2017 and in the remark column it is mentioned “notice returned”. Subsequently, notices were issued on 18.09.2017, 26.09.2017 and 24.10.2017 and there is remark column, “non-appeared and no reply filed”. The order of Ld. First Appellate Authority does not reflect if notices were served personally for 09.04.2017 or for any other date thereafter. Thus, the ends of justice will be served by giving appellant assessee opportunity to contest the matter on merits before the Ld. CIT(A).

Accordingly **the appeal is allowed**. Impugned order of CIT(A), is set aside and the assessee shall appear before the Ld. CIT(A) on 01/09/2022. There upon after giving opportunity of hearing the appeal shall be decided afresh on merits.

**Order pronounced in the open court on 15<sup>th</sup> June, 2022.**

**Sd/-**  
**(G.S.PANNU)**  
**PRESIDENT**

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

*Date:- 15.06.2022*

**\*Binita, SR.P.S\***

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI