

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C" DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.6504/DEL/2019  
Assessment Year 2009-10

Jaleshwar Nath Sinha, B-147, Sector-31, Noida, Gautam Budh Nagar.	vs.	ITO, Ward-1(5), Noida.
TAN/PAN: ACSPS5135Q		
(Appellant)		(Respondent)

Appellant by:	Shri Manoj Kumar, CA		
Respondent by:	Ms. Anupama Singla, Sr.DR		
Date of hearing:	31	05	2022
Date of pronouncement:	16	06	2022

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

The captioned appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)-I, Noida ('CIT(A)' in short) dated 31.12.2018 arising from the assessment order dated 29.11.2016 passed by the Assessing Officer (AO) under Section 147 r.w.s. 144 of the Income Tax Act, 1961 (the Act) concerning AY 2009-10.

2. As per the grounds of appeal, the assessee has challenged the action of the CIT(A) confirming the addition of Rs.11,65,500/- made by the Assessing Officer by passing the assessment order under Section 143(3) dated 29.11.2016 and rectification thereafter under Section 154 dated 12.10.2017 on account of cash deposits in the bank account maintained with State Bank of India, Noida.

3. With the assistance of the Id. counsel for the assessee, firstly we find that the first appellate order passed by the CIT(A) is cryptic and non descript. It is not discernible as to how the assessment order ceases to survive and is rendered infructuous as observed in the impugned order. The rectification order passed by the Assessing Officer under Section 154 stands merged with the original assessment order on rectification and does not render the original order as *nonest*.

4. Secondly, in the instant case, the first appellate order is claimed to have been passed on 31.12.2018 whereas the order has been served/communicated to the assessee on 17.06.2019, i.e., after an inordinate delay of six months. Such inordinate delay has propensity to induce disquiet in the mind of the tax payer and cast aspersions on the fair conduct on the part of revenue. The CIT(A) is expected to follow the guiding principles in letter and spirit as provided in CBDT Instruction No.20/2003 dated 23.12.2003 which was reiterated vide CBDT letter F.No.279/Misc. 53/2003 ITJ dated 19.06.2015. Another communication F.No. DGIT (Vig.) /HQ /SF/Appeals/2017-18/9959 dated 08.03.2018 was yet again issued by CBDT to give impetus to timely dispatch of orders passed by CIT(A) to shun any suspicious about backdating and *mala fide* intent.

5. Noticiably, the conclusion drawn by the first appellate authority appears to be *prima facie* arbitrary and bereft of any process of reasoning to come to a conclusion which is under challenge.

6. In this backdrop, without any expression on merits, we set aside summary order of the CIT(A) and restore the proceedings back to the file of the CIT(A) for *denovo* adjudication of the

grievance raised by the assessee in its grounds of appeal in accordance with law after giving reasonable opportunity of being heard.

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

**Order pronounced in the open Court on 16/06/2022.**

Sd/-  
**[SAKTIJIT DEY]**  
**JUDICIAL MEMBER**

DATED: /06/2022

*Prabhat*

Sd/-  
**[PRADIP KUMAR KEDIA]**  
**ACCOUNTANT MEMBER**