

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "D" NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No.972/Del/2020  
(निर्धारण वर्ष / Assessment Year : 2010-11)

Mukta Rashmi Goel C/o Kumar Nohria & C. A . H. No.1472, Sector-22-B, Chandigarh, Chandigarh	<b>बनाम/</b> Vs.	DCIT International Taxation Circle Gurgaon
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. ANDPG3785G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Sh. B. K. Nohria, CA
प्रत्यर्थी की ओर से / Respondent by :	Shri Sanjay Kumar, Sr. DR

सुनवाई की तारीख / Date of Hearing	13/06/2022
घोषणा की तारीख /Date of Pronouncement	17 /06/2022

**आदेश/ORDER**

**PER PRADIP KUMAR KEDIA, AM:**

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-43, New Delhi ('CIT(A)' in short), dated 11.06.2019 concerning AY 2010-11.

2. The assessee has raised the following grounds of appeal :-

1. *That on the facts and in the circumstances of the case the Learned CIT (A) – 43 New Delhi has erred in law and facts in upholding the contention of learned AO due to non-attendance of the appellant whereas the appellant has not received any notice of hearing either through post or through email or any message on the mobile no. mentioned in the appeal form no.35.*

2. *That on the facts and in the circumstances of the case the Learned CIT (A)– 43 New Delhi has erred in law and facts in upholding the contention of the learned AO without recording any findings.*

3. *That on the facts and in the circumstances of the case the Learned CIT (A)- 43 New Delhi has erred in law and facts in upholding the contention of the learned AO in adding Rs. 5,00,000/- without any evidence that the same has been deposited by the appellant in her bank account and income of the appellant as per Section 2 (240 of the Income Tax Act, 1961.*

4. *That the appellant reserves the right to add, amend or delete one or more of the grounds of appeal before the appeal is disposed off.*

3. When the matter was called for hearing, the Ld. Counsel for the assessee submitted that the assessee is a non resident and consequently the notices send to her at local address of India were not received by her and she was not privy to ongoing proceedings. Hence, the alleged undisclosed income of Rs. 5 lacs was added in the hands of the assessee *ex-parte* without any defence offered before the Assessing Officer. The CIT(A) also passed *exparte* order

without the explanation of the assessee on the source of alleged undisclosed income.

4. The Ld. Counsel for the assessee thus contended that both the orders of the lower authorities are passed *ex parte* without any opportunity to the assessee to put up her defence suitably. The Ld. Counsel for the assessee thus urged for restoration of the appeal before the Assessing Officer with a request for service of notice at following address :-

Mrs. Mukta Rashmi Goel

C/o M/s. Kumar Nohria & Co.

Chartered Accountants

House No.1472, Ground Floor, Sector- 22 B

Chandigarh-160022

to defend its position on law and facts.

5. The Ld. DR on the other hand, relied upon the order of the lower authorities and submitted that the department has served the notice at the address as provided and there is no obligation on the part of the revenue to serve the notice outside the territory of India. It is the duty of the assessee to inform the department on the local address in India for proper service of notice and remain vigilant for her tax matters. It was thus submitted that no fault can be found with the action of the revenue authorities.

6. In the light of respective submissions from the assessee as well as revenue, it is manifest that both the concurrent orders of the revenue authorities are passed *ex part*. The notices were claimed to have been served on the local address provided but however, the

assessee claims to be not privy to such notice resulting in completion of the proceedings in the absence of the assessee and consequently without any opportunity. In the peculiar circumstances, we consider it expedient to restore the matter back to the file of the Assessing Officer to enable the assessee to avail a fresh opportunity to defend her case and adduce requisite evidence and explanation. This will promote the sacroscent principles of natural justice and prevent miscarriage of justice. The assessee is however cautioned to ensure proper attendance in the proceedings and ensure compliance of the requirements as called for by the revenue authorities.

7. Consequently, the order of the CIT(A) is set aside and the matter is restored to the file of the AO.

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

**This Order pronounced on 17/06/2022**

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

Dated: 17/06/2022

\*Neha, Sr. Private Secretary

Copy forwarded to:

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

Sd/-  
**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI