

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'G' NEW DELHI**

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

ITA No.374/Del/2021
Assessment Year: 2014-15

Usman, C/o. R.K. Garg, Adv. T-314, 3 rd Floor, Ganga Plaza Begum Bridge, Meerut (UP)	Vs.	ITO, Ghaziabad.
PAN :ABOPU5453C		
(Appellant)		(Respondent)

Appellant by	Shri R.K. Garg, Adv.
Respondent by	Ms. Abhishek Kumar, Sr. DR

Date of hearing	09.06.2022
Date of pronouncement	23.06.2022

ORDER

PER SAKTIJIT DEY, JUDICIAL MEMBER:

This is an appeal by the assessee against order dated 209.11.2919 of learned Commissioner of Income-Tax (Appeals), Ghaziabad, for the assessment year 2014-15.

2. We have heard learned counsel appearing for the assessee and learned Departmental Representative.

3. The basic grievance of assessee, as reflected in ground nos. 1 and 2, is regarding ex parte disposal of the appeal by learned Commissioner (Appeals).

4. Briefly, the facts are, assessee is a resident individual and derives income from his proprietary concern M/s. Anas Traders. For the assessment year under dispute, assessee filed his return of income on 28.11.2014, declaring income of Rs.9,42,950. While completing the assessment under Section 143(3) of the Income-Tax Act,1961 vide order dated 29.12.2016, assessing officer rejected the books of account of assessee and estimated profit @ 8% on the turnover declared by the assessee applying the provisions of Section 44AD of the Act. Against the assessment order so passed, assessee preferred an appeal before learned Commissioner (Appeals). Appeal so filed by assessee was disposed of by learned Commissioner (Appeals) by the impugned order upholding the decision of the assessing officer.

5. Having considered rival submissions, we find that learned Commissioner (Appeals) proceeded to dispose of assessee's appeal ex

parte alleging that the hearing notices sent to assessee were never complied with.

6. In this contest, he has referred to the notices issued to assessee on 24.10.2019, 13.11.2019 and 21.11.2019 through speed post and e-mail.

7. Rebutting the allegations of learned Commissioner (Appeals), assessee submitted that the notices sent by learned Commissioner (Appeals) were returned back by the postal authorities due to insufficient address. Therefore, due to non-service of notice, assessee never got an opportunity to appear before learned Commissioner (Appeals).

8. Considering the fact that assessee's appeal was decided ex parte by learned Commissioner (Appeals) and assessee seeks an opportunity to represent his case before learned Commissioner (Appeals), which he could not avail earlier due to non-service of notices, we are inclined to set aside the impugned order of learned Commissioner (Appeals) and restore the matter back to his file for de novo adjudication. We direct the assessee to appear before learned Commissioner (Appeals) with a copy of this order and furnish his current address for

communication so that notice of hearing to be issued by learned Commissioner (Appeals) is properly served. Assessee is further directed to comply with the notice of hearing to be issued by learned Commissioner (Appeals) and cooperate in finalization of appeal proceedings. Grounds are allowed for statistical purposes.

9. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 23rd June, 2022.

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

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 23rd June, 2022.
Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	10.06.2022
2.	Date on which the draft of order is placed before the Dictating Member:	16.06.2022
3.	Date on which the draft of order is placed before the other Member:	.06.2022
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	20.06.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	21.06.2022
6.	Date on which the final order received after having been singed/pronounced by the Members:	23.06.2022
7.	Date on which the final order is uploaded on the website of ITAT:	23.06.2022
8.	Date on which the file goes to the Bench Clerk	23.06.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	