

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER  
AND  
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA Nos.1926 to 1932/Del/2021  
Assessment Years: 2005-06 to 2011-12

Sh. Naval Jyoti Barua, 2/4, samman Bazar, Bhogal, Jangpura, New Delhi	<b>Vs.</b>	DCIT, Central Circle-3, Delhi
<b>PAN :AKNPB7915J</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Amol Sinha, Advocate Sh. Nitin Gulati, Advocate
Respondent by	Sh. T. Kipgen, CIT (DR)

Date of hearing	30.06.2022
Date of pronouncement	08.07.2022

**ORDER**

**PER SAKTIJIT DEY, JM:**

Captioned appeals by the same assessee arise out of separate orders, all dated 21.04.2016, of learned Commissioner of Income Tax (Appeals)-29, New Delhi, pertaining to assessment years 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12.

2. The assessee raised common grounds in all these appeals. The primary grievance of the assessee is against ex-parte assessment orders passed under section 144 read with section 153C of the Income-tax Act, 1961 (for short 'the Act').

3. Briefly the facts are, the assessee is a resident individual. On 18.01.2011, a search and seizure operation under section 132(1) of the Act was carried out in case of M/s. Stockguru.India, its partners and associates. Based on the documents/materials seized in course of search and seizure operation, proceedings under section 153C of the Act were initiated in case of the assessee. As observed by the Assessing Officer, in response to notices issued under section 153C of the Act, the assessee did not furnish any return of income. Further, the notices issued under section 142(1) remained uncomplied. Thus, in absence of any explanation/reply and representation from the side of the assessee in course of the assessment proceedings, the Assessing Officer proceeded to complete the assessments ex-parte under section 144 of the Act, to the best of his judgment. While doing so, he made additions in each of the assessment years under dispute. Against the assessment orders so passed, the assessee preferred appeals before learned Commissioner (Appeals), inter alia, challenging the

ex-parte assessments done in violation of natural justice. Learned Commissioner (Appeals), however, did not accept the submission of the assessee and upheld the assessment orders passed under section 144 read with section 153C of the Act. On merits also, the additions were confirmed.

4. Before us, learned counsel for the assessee submitted, the assessee was never intimated about the proceedings initiated under section 153C of the Act. He submitted, only when the assessee received notice under section 221(1) of the Act seeking recovery of demand, the assessee could come to know about completion of assessment. Thereafter, the assessee applied for certified copies of the assessment order and first appellate order and filed appeals before the Tribunal. Thus, he submitted, neither before the Assessing Officer, nor before learned Commissioner (Appeals) the assessee got a fair opportunity of being heard. Thus, he requested for setting aside the orders passed by the departmental authorities and restoring the matter back to the Assessing Officer for framing de novo assessment.

5. Strongly relying upon the observations of the Assessing Officer and learned Commissioner (Appeals), learned Departmental Representative submitted, despite repeated opportunity being

granted to the assessee, both, by the Assessing Officer and learned Commissioner (Appeals), the assessee had failed to appear and properly represent his case. Therefore, the departmental authorities were compelled to conclude the proceedings in absence of the assessee.

6. In rejoinder, learned counsel for the assessee submitted, the assessee never received the notices issued by the Assessing Officer and learned Commissioner (Appeals), as, they were sent to wrong address. In this context, he drew our attention to an affidavit filed by the assessee mentioning the correct address.

7. We have considered rival submissions and perused the materials on record. It is a fact on record that assessments in case of the assessee were completed ex-parte under section 144 of the Act, to the best of the judgment of the Assessing Officer. Even, learned Commissioner (Appeals) has sustained the additions made by the Assessing Officer by observing that the assessee did not submit any evidence to rebut the additions, though, various opportunities were provided. As against the allegation of the departmental authorities, it is the claim of the assessee that he had never received any notice issued by the departmental authorities.

8. Be that as it may, without entering into the controversy whether notices issued by the departmental authorities were actually received by the assessee or not, considering the fact that the assessee remained unrepresented before the departmental authorities and is now requesting for an opportunity to represent his case before the departmental authorities with supporting evidences, we are inclined to set aside the orders passed by learned first appellate authority as well as the Assessing Officer and restore the matters back to the Assessing Officer for framing de novo assessment for all the assessment years under dispute.

9. Needless to mention, the Assessing Officer must provide reasonable opportunity of being heard to the assessee before completing the assessments. We may further observe, in course of hearing before us, learned counsel for the assessee has submitted that any communication to the assessee may be made in the following address:

*“Naval Jyoti Barua, R/o- H. No. 278, First  
Floor, Right Side, Ashoka Enclave, Main  
Sector 35, Faridabad- 121003, Haryana.*

10. The Assessing Officer is directed to issue statutory notices to the assessee in the above mentioned address. Grounds are allowed for statistical purposes.

11. In the result, the appeals are allowed for statistical purposes.

***Order pronounced in the open court on 8<sup>th</sup> July, 2022***

***Sd/-***  
**(Dr. B.R.R. KUMAR)**  
**ACCOUNTANT MEMBER**

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

Dated: 8<sup>th</sup> July, 2022.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi