

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.278/DEL/2020
Assessment Years 2010-11

Amit Kataria, C-47, Ground Floor, Mayfield Garden, Sector 50, Opp Manav Rachna International School, Gurgaon, Haryana.	v.	ITO, Ward-3(4), Gurgaon.
TAN/PAN: ARKPK4387P		
(Appellant)		(Respondent)

Appellant by:	Shri Satyajit Goel, Adv.		
Respondent by:	Shri Kanav Bali, Sr.D.R		
Date of hearing:	28	06	2022
Date of pronouncement:	14	07	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-I, Gurgaon ('CIT(A)' in short), dated 14.10.2019 arising from the assessment order dated 28.12.2017 passed by the Assessing Officer (AO) under Section 144 r.w. Section 147 of the Income Tax Act, 1961 (the Act) concerning AY 2010-11.

2. With the assistance of the Id. AR for the assessee, we observe that the assessment order was framed at best judgment assessment under Section 144 of the Act in view of the non compliance of statutory notices issued by the Assessing Officer asking the assessee to support the return of income and file the necessary details to

corroborate the transactions reflected in the return of income. In the first appeal also, the assessee has not attended the proceedings despite multiple notices as tabulated in paragraph 3.2 of the First Appellate order. Before the Tribunal, the assessee seeks restoration of the proceedings before the lower authorities to explain the case afresh.

3. We find that that assessee has not assigned any valid reason for continuing non compliance before the Assessing Officer or before the CIT(A). The Assessing Officer has passed the order summarily in the circumstances and the CIT(A) has also disposed off the first appeal *in limine*. The Id. counsel for the assessee strongly pitched for restoration of appeal before the lower authorities in larger interest of justice and to prevent miscarriage. It was suggested that some cost, at best, be imposed owing to delinquency shown in the matter but however the wholesale disallowances carried out would be totally disproportionate to the default committed due to such non compliance.

4. On perusal of the first appellate order, we find that the CIT(A) has declined to grant any relief to the assessee owing to the fact that assessee was totally non co-operative in the assessment proceedings despite several opportunities nor has complied before him in the first appellate proceedings. However, the CIT(A) has not rendered any decisions on merit. In our view, it was incumbent upon the CIT(A) to deal with grounds on merit after giving opportunity to the assessee in terms of Section 250(6) of the Act. However, we simultaneously appreciate the concerns of the Revenue on the lackadaisical and non co-operative attitude of the assessee towards the quantum proceedings.

5. In the totality of circumstances, we consider it expedient to restore the matter back to the file of the Assessing Officer in the larger interest of justice with a view to enable the assessee to avail opportunity once more. However such benevolence will be available at the cost of Rs.25,000/- to be deposited by the assessee within 1 month of service of this order to The Prime Minister Relief Fund. It shall be open to the Assessing Officer to make such inquiry as may be considered expedient in accordance with law on being satisfied towards payment of cost awarded. Needless to say, the assessee shall fully co-operate with the proceedings before the Assessing Officer without any demur and shall furnish the evidences/documents etc. as called for expeditiously.

6. Hence, the impugned order of the CIT(A) dated 14.10.2019 is set aside and all the issues raised in the captioned appeal are restored back to the file of the Assessing Officer for fresh adjudication in accordance with law after giving reasonable opportunity of hearing to the assessee.

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

Order pronounced in the open Court on 14/07/2022.

Sd/-

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

DATED: /07/2022

Prabhat