

**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 No.8107/Del/2019  
Assessment Year: 2016-17

Sh. Raj Kumar Yadav, BS-42A, Shalimar Bagh, Delhi	<b>Vs.</b>	Income Tax Officer, Ward-34(2), Delhi
<b>PAN :AAPPY5417Q</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Naman Gupta, CA & Sh. Ravi Gupta, CA
Respondent by	Ms. Indu Sen, Sr. DR

Date of hearing	29.06.2022
Date of pronouncement	14.07.2022

**ORDER**

**PER SAKTIJIT DEY, JM:**

This is an appeal by the assessee against order dated 30.08.2019 of learned Commissioner of Income Tax (Appeals)-12, Delhi, for the assessment year 2016-17.

2. We have heard Sh. Naman Gupta, learned counsel for the assessee and Ms. Indu Sen, learned Departmental Representative.

3. The primary grievance of the assessee is against ex-parte disposal of his appeal by learned first appellate authority. On

perusal of impugned order of learned Commissioner (Appeals), it is observed, learned Commissioner (Appeals) disposed of assessee's appeal ex-parte alleging that the assessee is either seeking adjournment or not appearing. However, a careful reading of the order of learned Commissioner (Appeals) reveals that for the first time the appeal was fixed for hearing on 16.07.2019, on which date, as alleged by learned Commission (Appeals), there was no compliance by the assessee. Thereafter, the case was again fixed on 27.08.2019. On the said date of hearing, the assessee sought adjournment due to want of certain documents. However, learned Commission (Appeals), rejecting assessee's request, proceeded to dispose of the appeal ex-parte.

4. Thus, from the aforesaid facts, it is evident, only on the second date of hearing the appeal was disposed of by learned Commissioner (Appeals) rejecting request for adjournment. As could be seen from the facts on record, while completing the assessment, the Assessing Officer has added back an amount of Rs.52,52,000/- representing deposits made in some bank accounts. Therefore, the assessee is required to explain the source of the deposits made in the bank account through supporting evidence. For doing so, if the assessee required reasonable time, it

should have been granted by the first appellate authority. Therefore, in our view, learned Commissioner (Appeals) was not justified in proceeding to dispose of the appeal ex-parte. Accordingly, we set aside the impugned order of learned Commissioner (Appeals) and restore the matter back to him for de novo adjudication. Grounds are allowed for statistical purposes.

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

***Order pronounced in the open court on 14<sup>th</sup> July, 2022***

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

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

Dated: 14<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