

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH : "E" NEW DELHI]**

**BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

I.T.A. No. 2611/DEL/2017 (A.Y 2007-08)

<p>Orion Automobiles Pvt. Ltd., House No. 11, New Colony, Gurgaon, Haryana – 122 001. PAN No. AAACO3793K (APPELLANT)</p>	Vs.	<p>Income Tax Officer, Circle : 19 (2) New Delhi. (RESPONDENT)</p>
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Assessee by	N O N E;
Department by	Shri Ajay Kumar Arora, Sr. D. R.;

Date of Hearing	08.12.2022
Date of Pronouncement	19.01.2023

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-36, New Delhi [hereinafter referred to CIT (Appeals) dated 31.01.2017 for assessment year 2007-08.

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

“1. That on the facts and circumstances of the case and in law, Ld CIT(A) -36 , New Delhi erred in dismissing appellant's appeal whereas the appellant was prevented by reasonable cause in not attending the appellate proceedings before the Ld. CIT(A)-36 New Delhi.

2. That on facts and circumstances of the case the Ld. CIT(A) - 36, New Delhi erred in deciding the appellant's appeal whereas the assessment is bad in law and unjurisdictional without proper/valid service of legal notice.

3. That the order of Ld. CIT (A) without giving proper opportunity to explain the case is bad in law in the facts and circumstances of the case.

4 (a) That the Ld. CIT(A) is not justified in confirming the addition of Rs.1,12,02,800/- on account of whole of the cash deposit in bank account on the basis ITS details generated by department where as all the deposits are out of cash available from sale/service charges received from customers on account of sale of spares/service charges and duly explained/explainable and disclosed in the audited balance sheet filed during assessment proceedings. .

(b) Without prejudice to above the appellant disputes that the quantum of addition confirmed is on higher side.”

3. Brief facts of the case are that, as per ITS details generated have depicted that the assessee company during the Financial Year 2006-07 carried out transaction exceeding Rs. 10,00,000/-. Despite issuance of notice by the Department, the assessee company has neither filed any representation nor any return of income. The A.O. has recorded the reasons and belief for escaped Assessment Year and the notice u/s 148 of the Act has been sent to the assessee. Since, the assessee has not cooperated in finalizing the assessment proceedings, the assessment order came to be passed u/s 144/147 of the Income Tax Act 1961, ('Act' for short) on 25/03/2015, wherein an amount of Rs. 1,12,02,800/- credited in the assessee's bank accounts has been added to the income of the assessee u/s 68 of the Act.

4. Aggrieved by the assessment order dated 25/03/2015, the assessee has preferred an appeal before the CIT(A). The Ld.CIT(A) vide order dated 31/01/2017, dismissed the appeal by confirming the assessment order.

5. Aggrieved by the order dated 31/01/2017, the assessee has preferred the present appeal on the grounds mentioned above.

6. None appeared for the assessee. On verifying the order sheet it is found that the representative of the assessee had appeared before the Tribunal on 20/01/2022 and sought time, thereafter neither the assessee nor the representative of the assessee have appeared before the Tribunal. Therefore, we deem it fit to decide the matter on merit after hearing the Ld. DR.

7. We have heard the Ld. DR, perused the material available on record and gave our thoughtful consideration.

8. It is the specific ground of the assessee before the CIT(A) that, the Ld. A.O. had asked to explain certain cash deposits in the bank, therefore, the assessee made a formal request to the ICICI Bank to provide the copy of the bank statement which has been provided by the bank on 27/03/2015. On

28/03/2015, the assessee presented the bank statement before the A.O. and the explanation for cash deposits where the cash received against sale proceeds of vehicles and all other documents and information asked by the A.O. But the Ld. A.O. had already passed the assessment order ex-parte on 25/03/2015 and refused to entertain the documents provided by the assessee.

9. By considering the above circumstances in the interest of justice, we deem it fit to remand the matter to the file of Ld. A.O. for de-novo consideration by giving the opportunity to the assessee to put forth his case and produce the documents. Ergo, the Ground No. 1 of the Assessee's appeal is allowed for statistical purpose with a direction to the A.O. for de-novo consideration and pass the assessment order afresh after hearing the assessee. Since, we have remanded the matter to the file of A.O. for de-novo consideration on merit, the Ground No. 2 to 5 requires no adjudication at our hands.

10. In the result, appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on : 19 .01.2023.

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

**Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Dated : 19/01/2023

MEHTA/R.N, Sr. PS

Copy forwarded to :

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

ASSISTANT REGISTRAR
ITAT NEW DELHI