

**IN THE INCOME TAX APPELLATE TRIBUNAL  
ALLAHABAD 'SMC' BENCH, ALLAHABAD  
BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER**

**ITA No.30/ALLD/2022  
Assessment Year: 2009-10**

Dr. Kuldeep Darbari, 3, Civil Road, Civil Lines, Allahabad, 211001, U.P. <b>PAN-ACKPD6055A</b>	v.	Income Tax Officer, Range1(2), Allahabad, U.P.
(Appellant)		(Respondent)

Appellant by:	None (Application)
Respondent by:	Sh. A.K. Singh, Sr. DR
Date of hearing:	24.01.2023
Date of pronouncement:	24.01.2023

**ORDER**

**SHRI VIJAY PAL RAO, JUDICIAL MEMBER:**

This appeal by the assessee is directed against the order dated 18.11.2019 of CIT(A), Allahabad for the assessment year 2009-10.

2. None has appeared on behalf of the assessee when this appeal was called for hearing despite the fact that several adjournments of hearing have already been granted on the request of the assessee. An application for adjournment of hearing has been filed on behalf of the assessee however, it transpires from the record that there is no authority in favour of the counsel who has filed the application for adjournment. Accordingly, the Bench proposes to hear and dispose of this appeal *ex parte*.

3. The assessee has raised the following grounds of appeal:

*"1. That in any view of the matter order passed u/s 143 (3) /147 of the Act dated 29.03.2016 by determined the income at Rs.21,59,640/- and his action as confirmed by CIT (Appeal) by passing ex-parte order dated 18.11.2019 are in vague manner and incorrect.*

*2. That in any view of the matter the ex-parte order dated 18.11.2019 is illegal and the observation and finding and the said order are totally incorrect and contrary to the facts of the case. Hence the action of the CIT appeal is not correct.*

*3. That in any view of the matter notice u/s 148 dated 27.03.2015 is illegal, invalid and for issue of such notice there was no valid reason nor any direct evidence brought on record by the department and the entire approach of the lower authority was in a mechanical/suspicious manner hence the action of both the lower authorities are illegal and without jurisdiction and more so no opportunity was allowed to the appellant.*

*4. That in any view of the matter no donation/on money or any captioned fee paid by the appellant for admission of his son in medical college as alleged by the two lower authorities in their order are totally incorrect and the addition made simply on the basis of suspicious and such type of suspicious could not take the place of belief hence addition is unwarranted.*

*5. That in any view of the matter addition of Rs.20,10,000/- made by the assessing officer on irrelevant consideration and his action as confirmed by CIT (Appeal) is not correct and even no verification was done from the institution by the department about in respect of the allegation made in the order. The department was bound to verify the facts from this institution before making the addition.*

*6. That in any view of the matter no material available on record for making the addition of Rs. 20,10,000/- about any payment of on money hence liable to be deleted. Further in other cases also on similar issue no such type of addition was maintained by the appellate authority in similar set of fact hence addition is liable to be deleted.*

*7. That in any view of the matter interest charge under different sections is highly unjustified.*

*8. That in any view of the matter reserve his right to take any fresh ground of appeal before the hearing of appeal."*

The Ground Nos. 1 and 2 are regarding *ex-parte* order passed by the CIT(A).

4. I have heard the learned DR and carefully perused the impugned order of the CIT(A). The CIT(A) has dismissed the appeal of the assessee for want of any detail and evidence in support of the claims/grounds raised by the assessee. The relevant part of the order of the CIT(A) is as under:-

*"Notices dated 25.01.2019, 20.02.2019, 12.03.2019, 08.04.2019, 24.07.2019 and 30.10.2019 fixing the date for compliance on 05.02.2019, 28.02.2019, 19.03.2019, 23.04.2019, 01.08.2019 and 14.11.2019 were issued through official Income Tax Business Application (ITBA network)/ speed post. These notices were served on the e-mail address/ speed post submitted by the applicant while filing the appeal. No written submission or any paper books has been filed in support of any of the grounds of appeal in this office. It appears that assessee is not interested in pursuing his own appeal. The case is being decided in absence of any submission or attendance by the assessee or his/her A.R. On each of these days when the case was fixed for hearing, it is seen that the assessee has remained absent, despite the fact that notice for the specific dates of hearing have consistently been sent to the address provided by the assessee in its memo of appeals. In these circumstances, it can be safely presumed that the assessee has nothing to submit any material in support of grounds of appeal. The contents of the AO's order have been perused and I have no reasons to interfere with the stand taken by the AO. During the appeal proceeding also, the details and evidences in support of the claims made in the grounds of appeal are not filed. Therefore, the assessment order is not interfered with. Ground nos. 1, 6 & 8 are general in nature, hence not adjudicate upon.*

*In the result, appeal is dismissed."*

5. Thus, it is manifest from the impugned order that the CIT(A) has dismissed the appeal of the assessee for want of the appearance and submissions on behalf of the assessee despite several notices given to the assessee. The CIT(A) has dismissed the appeal in limine without going into the merits of the issues raised by the assessee and therefore, the impugned order of the CIT(A) is a non-speaking order which is not in accordance with the provision of Sections 250 and 251 of the Income Tax Act.

5a. Accordingly, in the facts and circumstances of the case, the impugned order of the CIT(A) is set aside and the matter is remanded to the record of the CIT(A) for deciding the same afresh on merits after giving an opportunity of hearing to the assessee. Since, the matter is remanded to the record of the CIT(A) therefore, the other grounds raised by the assessee become infructuous.

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

Order is pronounced in the open court on a conclusion of hearing on 24.01.2023 at Allahabad.

***Sd/-***  
**[VIJAY PAL RAO]**  
**JUDICIAL MEMBER**

DATED: 24/01/2023

Allahabad

KD Azmi

Copy forwarded to:

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

By order  
Sr. P.S.