

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E' NEW DELHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND  
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 9706/Del/2019  
Assessment Year: 2011-12**

Mohd. Naki, H-1/7, Phase-3,  
JJ Cluster, Madanpur Khadar,  
New Delhi.

**PAN: AKNPN3712F**  
(Appellant)

Versus Income-tax Officer,  
Ward 28(5), New Delhi

(Respondent)

Assessee by: None

Revenue by: Sh. Arvind Bansal, Ld. Sr. DR

Date of hearing : 16/03/2023

Date of order : 29/03/2023

**ORDER**

**PER N.K. CHOUDHRY, J.M.**

This appeal has been preferred by the Assessee/Appellant herein against the order dated 22.10.2019, impugned herein, passed by the learned Commissioner of Income-tax (Appeals)-9, New Delhi (in short "Ld. Commissioner"), u/s. 250 of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2011-12.

**2.** In spite of sending notices including for the date of hearing on 16.03.2023, to the Assessee at the address mentioned in form No. 36, the Assessee neither appeared nor filed any adjournment application. Even the Registry do not have any alternative address for sending the notices by post. Hence, in the constrained circumstances, we are inclined to decide this appeal as ex-parte.

**3.** In the instant case, from the AIR information available with the department, it was noted that the Appellant during the financial year under consideration had deposited Rs.47,98,000 in its bank account maintained with Central Bank of India, but did not file its ITR. Consequently, the case of the Appellant was opened u/s. 147/148 of the Act and notice dated 27.03.2018 u/s. 148 of the Act was issued to the Appellant which remained uncomplied. Subsequently, statutory notice u/s. 142(1) of the Act along with questionnaire was also issued to the Appellant through e-mail which also remained un-complied. On procuring the bank statement from Central Bank of India u/s. 133(6) of the Act, it was seen by the Assessing Officer that there were total cash deposit of Rs.76,23,700/-. As the Appellant has failed to submit any reply to the query, qua the source of cash deposits, it was held by the Assessing Officer that the same remained

unexplained. Consequently, the said amount Rs.76,23,700/- was treated as income of the Appellant .

**4.** The Appellant being aggrieved, challenged the assessment order and the addition before the Id. Commissioner and mainly raised the issue that the Appellant had not received any notice except for ex parte assessment order. Since it had not received any notice, the proceedings should be treated as void and ineffective. Though the Id. Commissioner considered the contention of the Appellant, however, found not tenable. The Id. Commissioner specifically given a finding that the appellant in its submission has contended that the notice has been dispatched on 31.03.2018 at 2 PM and delivered to someone (as shown on the track report of speed post but name of receiving person was not mentioned) on 02.04.2018 and yet no effort was made by the appellant to take part in the assessment proceedings. Hence, the contention of the appellant with regard to not providing enough opportunity during the course of assessment proceedings is dismissed.

**5.** On merit, the Id. Commissioner also observed that during the course of appellate proceedings, the Appellant has not filed any substantive document or provided any substantial argument or bona fide reason to counter the findings of the Assessing Officer. Mere making the claim and not providing something

would not do any good to the stand of the appellant. The onus was on the appellant to produce the necessary documents or evidences as called for at the time of assessment proceedings. The appellant's reliance on various case laws, is not found to be applicable in this case in as much as the circumstances and facts in those cases are different from the facts and circumstances in the present case.

**6.** We have given thoughtful consideration to the peculiar facts and circumstances and observe from the orders passed by the authorities below, as it appears, that sufficient opportunities have been provided to the Appellant by issuing a notice u/s. 148 and 142(1) of the Act, however, the Appellant preferred not to file any reply. Further before the Id. Commissioner as well the Appellant neither filed any substantive documents nor provided any substantial arguments to counter the findings of the Assessing Officer. Therefore, the Id. Commissioner correctly held that mere making a claim and not providing something would not do any good to the stand of the appellant. The onus was on the appellant to produce the necessary documents or evidences as called for at the time of assessment proceedings. Even otherwise, we do not find any reason and/or material to contradict the findings of the Id. Commissioner. Hence, we are inclined not to interfere with the impugned order. Consequently, the appeal stands dismissed.

**7.** In the result, the appeal filed by the Appellant stands dismissed.

Order pronounced in the open court on 29/03/2023.

Sd/-

**(ANIL CHATURVEDI)**  
**ACCOUNTANT MEMBER**

Sd/-

**(N.K. CHOUDHRY)**  
**JUDICIAL MEMBER**

\*aks/-

Copy forwarded to:

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

Assistant Registrar  
ITAT New Delhi

Draft dictated	21.03.2023
Draft placed before author	22.03.2023
Approved Draft comes to the Sr.PS/PS	
Order signed and pronounced on	
Date of uploading on the website	
File sent to the Bench Clerk	
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	