

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC' NEW DELHI**

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No. 310/Del/2023
Assessment Year: 2017-18

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| Rajiv Kumar Sridhar, 309/10, near New Sabzi Mndi, Panipat (Haryana). | Vs. | ITO, Ward-5, Panipat. |
| PAN :AKTPS2920E | | |
| (Appellant) | | (Respondent) |

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|---------------|-------------------------|
| Appellant by | Shri Amit Kaushik, Adv. |
| Respondent by | Shri Om Prakash, Sr. DR |

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| Date of hearing | 20.03.2023 |
| Date of pronouncement | 31.03.2023 |

ORDER

This is an appeal by the assessee against order dated 17.12.2022 passed by the National Faceless Appeal Centre (NFAC), Delhi pertaining to assessment year 2017-18.

2. In the present appeal, the assessee has challenged the ex parte disposal of his appeal by the first appellate authority.

3. Briefly, the facts are, the assessee is a resident individual. As stated by the Assessing Officer, the assessee did not file any return of income under Section 139(1) of the Act for the assessment year under dispute. After receiving information that in the financial year relevant to the assessment year under dispute, the assessee has deposited cash in two bank accounts coinciding with the demonetization period, the Assessing Officer issued notice under Section 142(1) of the Income-Tax Act, 1961 calling upon the assessee to file a return of income and also to explain the source of cash deposits. As alleged by the Assessing Officer, the assessee did not respond to the notice issued under Section 142(1) of the Act. Therefore, he proceeded to complete the assessment ex parte to the best of his judgment by invoking the provisions of section 144 of the Act. While doing so, he added back an amount of Rs.19,56,177 to the income of the assessee. Against the assessment order so passed, assessee preferred an appeal before the First Appellate Authority, which was dismissed by the impugned order.

4. Before me, the sole grievance of the assessee is that without providing reasonable opportunity of being heard the first appellate

authority has disposed of the appeal ex parte by confirming the addition made by the Assessing Officer.

5. Having considered rival submissions, I find, both the assessment proceedings and the first appellate proceedings were decided ex parte. From the impugned order of the first appellate authority, it is observed that the last date of hearing of appeal was fixed before the first appellate authority on 02.12.2022. The first appellate authority heard the appeal on that day by mentioning that no response was received from the appellant. However, learned counsel appearing for the assessee submitted that the assessee had uploaded in the portal of the department an application seeking adjournment, which was completely ignored by first appellate authority. Be that as it may, since, assessee's sole grievance is against lack of opportunity and he is seeking a fair opportunity to represent his case before the departmental authorities, I am inclined to grant an opportunity to the assessee to do so. Accordingly, the impugned order of the first appellate authority is hereby set aside and the issues are restored back to the Assessing Officer for fresh adjudication after providing reasonable opportunity of being heard to the assessee.

6. At the same time, I direct the assessee to comply with the queries to be raised by the Assessing Officer and participate in the assessment proceedings and extend all cooperation to the Assessing Officer in finalizing the proceedings. It is open to the assessee to furnish any evidence, which may be required to explain the source of the cash deposits made in the bank account. Grounds are allowed for statistical purposes.

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

Order pronounced in the open court on 31st March, 2023.

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

Dated: 31st March, 2023.

Mohan Lal

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi