

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं .I.T.A No. 2409/Del/2019
निर्धारण वर्ष/Assessment Year: 2013-14

Shri Sunil Kumar Shukla, 2967, Kucha Mai Dass, Sita Ram Bazar, Delhi - 110 006.	<u>बनाम</u> Vs.	Income Tax Officer, Ward : 46 (4) New Delhi.
PAN No. AAJPS3778A		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारितकीओरसे / Assessee by :	N o n e;
राजस्वकीओरसे / Department by :	Shri H. K. Choudhary, [CIT] - D. R.;

सुनवाईकीतारीख/ Date of hearing :	27.04.2023
उद्घोषणाकीतारीख/ Pronouncement on :	22.05.2023

आदेश / O R D E R

PER C. N. PRASAD, J.M.

1. This appeal is filed by the assessee against the order of the ld. Commissioner of Income Tax (Appeals)-16 [hereinafter

referred to CIT (Appeals)] New Delhi, dated 30.08.2018 for assessment year 2013-14.

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

“1. Under the facts and circumstances of the case, the appellate order passed by the Ld. CIT (A) is illegal being against the principles of natural justice and against the provisions of IT Act, 1961 because of not adjudicating the grounds of appeal taken by the appellant and dismissing the appeal solely because of non-appearance of the appellant on hearings.

2. That the Ld. AO grossly erred in law and to the facts of the case in assessing Rs.13,40,00,000/- as income of the appellant on account of sale of the property despite the fact that the appellant appeared personally in the office of Ld. AO and explained that the sale transaction has not materialized and is already cancelled.

3. That the Ld. AO grossly erred in law and to the facts of the case in taking the cost of acquisition of property to be NIL despite the known fact that the alleged property was an ancestral property which had devolved upon the appellant from ancestors.

4. That the Ld. AO grossly erred in facts of the case in assessing the differential amount of sales of Rs.18,24,236/- as income of the appellant despite the fact that as per his Profit and Loss account he had Profit of Rs.2,34,618/- out of which Rs.1,04,278/- was duly declared in the return of income filed by him.

5. That the Ld. AO grossly erred in law and in facts of the case in making estimated disallowance of Rs.54,683/- being 1/5th of the expenses incurred by the appellant.

6. The appellant craves leave to add, alter, modify and withdraw any ground of appeal before or during the appellate proceedings.”

3. In spite of issue of notice none appeared on behalf of the assessee nor any adjournment was moved. We dispose of the appeal on hearing the ld. DR.

4. On perusal of the record before us it is noticed that the ld. CIT (Appeals) dismissed the appeal of the assessee for non-prosecution. The ld. CIT (Appeals) has not adjudicated the issues on merits. The assessee in the grounds of appeal contends that order of the ld. CIT (Appeals) is against the principles of natural justice as the ld. CIT (Appeals) failed to adjudicate the grounds on merits and dismissed the appeal solely because of the non-appearance.

5. On hearing the ld. DR we are of the view that this appeal should go back to the ld. CIT (Appeals) for deciding the issues on merits. Thus, this appeal is restored to the file of the ld. CIT (Appeals) for de novo adjudication on merits after providing adequate opportunity of being heard to the assessee.

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

Order pronounced in the open court on : 22/05/2023.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 22/05/2023.

MEHTA

Copy forwarded to :-

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

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	17.05.2023
Date on which the typed draft is placed before the dictating member	18.05.2023
Date on which the typed draft is placed before the other member	22.05.2023
Date on which the approved draft comes to the Sr. PS/ PS	22.05.2023
Date on which the fair order is placed before the dictating member for pronouncement	22.05.2023
Date on which the fair order comes back to the Sr. PS/ PS	22.05.2023
Date on which the final order is uploaded on the website	22.05.2023
Date on which the file goes to the Bench Clerk	22.05.2023
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	