

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH: 'F' NEW DELHI ]**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER**

**AND**

**SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 2157/DEL/2019 (A.Y. 2012-13)**

Rajesh Kumar A-501, Nirla Eden Park, Ahinsa Khand, Indirapuram, Ghaziabad Uttar Pradesh <b>PAN: AHPPK1435K</b> <b>( APPELLANT )</b>	Vs.	ACIT Circle 56(1) New Delhi  <b>( RESPONDENT )</b>
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<b>Assessee by :</b>	<b>None</b>
<b>Department by:</b>	<b>Ms. Beenu, Sr. DR</b>

<b>Date of Hearing</b>	<b>21.06.2023</b>
<b>Date of Pronouncement</b>	<b>23.06.2023</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

The present appeal has been filed by the assessee against the order dated 07/01/2019 passed by the Id. Commissioner of Income Tax (Appeals)-38 (hereinafter referred to CIT (Appeals) Delhi, for assessment year 2012-13.

2. The grounds of Appeal are as under:-

*“That the order in bad in law and facts of the case. The Ld. CIT(A) has no jurisdiction to decide the appeal.”*

3. None appeared for the assessee. As per the direction of the Tribunal, the Department has served the notice to the Assessee and filed a report dated 26/09/2022 providing the proof of service of notice to the Assessee. It is found from the order sheet that the assessee remained absent for five consecutive hearing dates. Considering the above facts and circumstances, we deem it fit to hear the Ld. Departmental Representative, verify the material on record and decide the matter.

4. Brief facts of the case are that, the assessee filed return of income declaring total income at Rs. 5,51,100/- which was processed u/s 143(1) of the income Tax Act ('Act' for short) later assessment was completed ex-parte u/s 144 of the Act at an income of Rs. 32,16,100/- as against the returned income of Rs. 5,51,100/-. Pursuant to the assessment order, a penalty order came to be passed on 30/09/2015 u/s 271(1)(c) of the Act. Aggrieved by the penalty order dated 30/09/2015, the assessee preferred an Appeal before the CIT(A). The Ld. CIT(A) vide order dated 07/01/2019 dismissed the Appeal filed by the assessee.

5. As against the order of the CIT(A) dated 07/01/2019, the assessee preferred the present appeal on the ground mentioned above.

6. The Ld. Departmental Representative submitted that though the several opportunities have been given to the assessee by the A.O. during the assessment proceedings the assessee chose not to appear. The Ld. DR relying on the orders of the Lower Authorities submitted that the assessee should not be given any lenience who has failed to appear before the Lower authorities and even before the Tribunal, therefore, the Appeal of the Assessee liable to be dismissed.

7. We have heard the parties, perused the material. The assessment order came to be passed u/s 144 since the assessee failed to participate in the assessment proceeding and an addition of Rs. 26,65,000/- was made u/s 69 of the Act. Further the assessee had failed to appear during the penalty proceedings, therefore, the impugned order of penalty came to be passed against the assessee. Even before the appellate proceedings, the assessee failed to appear in spite of several opportunities given to the assessee. Further even before us, either the assessee or the representative of the assessee not appeared and brought anything on record in support of the defense of the Assessee. Further, the assessee has not furnished any details or submissions providing explanation against the allegation of large amount of cash deposit in the bank account of the assessee either before the Lower Authorities or before us. We have also gone through the penalty proceedings initiated by the A.O. and found that the assessee has committed violation of statutory mandate placed upon him and the Assessee failed to offer any explanation with regard to

addition made in the assessment order u/s 143(3) of the Act dated 30/03/2015. Thus, we are of the opinion that the penalty proceedings initiated by the A.O. which was confirmed by the CIT(A) found to be in order. Considering the above facts and circumstances, we find no error or infirmity in the penalty order and the order of the CIT(A) accordingly, we find no merit in the grounds of Appeal of the assessee.

8. In the result, the Appeal filed by the assessee is dismissed.

Order pronounced in the open court on : **23/06/2023.**

**Sd/-**  
**( SHAMIM YAHYA )**  
**ACCOUNTANT MEMBER**

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

Dated : 23/06/2023

*\*R.N, Sr. PS\**

Copy forwarded to :-

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

