

IN THE INCOME TAX APPELLATE TRIBUNAL ALLAHABAD "SMC"
BENCH, ALLAHABAD

BEFORE SHRI ABY T. VARKEY, JM

आयकर अपील सं/ I.T.A. No.32/Alld/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)

Hanuman Prasad and Sons 28, Dhoomanganj, Allahabad-211001.	बनाम/ Vs.	ITO, Range-2(1), Allahabad-211001.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABFH3684A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	Smt Srishti Gupta	
Revenue by:	Shri A. K. Singh (Sr. DR)	

सुनवाई की तारीख / Date of Hearing: 14/09/2023
घोषणा की तारीख /Date of Pronouncement: 04/10/2023

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. CIT(A)/NFAC, Delhi dated 26.12.2022 for AY. 2017-18.

2. At the outset, the Ld. AR of the assessee Smt. Srishti Gupta submitted that the impugned order of the Ld. CIT(A) is an ex-parte order. Drawing my attention to page no. 3 of the impugned order, the Ld. AR submitted that the Ld. CIT(A) had asserted to have issued notices of hearing from 24.12.2020 to 05.09.2022, which according to her was mainly in the midst of Covid-19 Pandemic period. And during that time, according to her, it is common knowledge that there were frequent lock down declared by the Government Authorities; and moreover there were technical glitches in the digital world, so the assessee did not receive the last few notices issued by the Ld. CIT(A). To show her bonafides, the Ld. AR brought to my notice that when she received the first notice, she sought adjournment and thereafter did not



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receive any notices of hearing, which omission resulted in assessee not filing any reply and which ultimately led the Ld. CIT(A) to believe that the assessee did not want to participate in the Appellate Proceedings. According to the assessee, the assessee had a strong case balance of convenience is in her favour; and pointed out that the Ld. CIT(A) has merely reproduced the assessment order and has confirmed it without assigning any reasons of his own while adjudicating the ground raised by assessee, which action of the Ld. CIT(A) is untenable being violative of sub-section (6) of Section 250 of the Income Tax Act, 1961 (hereinafter “the Act”). Therefore, the impugned order according to Ld. AR be set aside and an opportunity be given to the assessee for violation of natural justice.

3. Per contra, the Ld. DR submitted that the assessee has been given notices five (5) times by the Ld. CIT(A) and since the assessee failed to participate in the proceedings during the first Appellate Proceedings, assessee should not be given another opportunity.

4. In her rejoinder, the Ld. AR of assessee pointed out that the AO has made the addition only because assessee could not file the bank statement before him. And according to her, a perusal of the bank statement would reveal that the addition made by the AO of Rs.4,50,000/- was erroneous since the same was given through banking transaction from Ranjana Traders. And to buttress this claim drew my attention to page no. 7 of paper book (PB) wherein copy of bank statement as well as to page no. 6 of the PB wherein the ledger of Ranjana Traders is found placed. And thus she contended that on perusal of the same, it would reveal that Rs.4.50 Lakh ought not to



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have been added. Likewise, she also drew my attention ground no. 2 regarding addition of Rs.1,50,650/- which according to her was added by AO erroneously because he didn't appreciate that amount was reflected in the ledger account of Chuni Chokar; and given an opportunity, the assessee would be able to explain regarding these grounds of appeal. So, she reiterated the prayer for an opportunity before the Ld. CIT(A).

5. I have heard both the parties and perused the records. I note that the impugned order of the Ld. CIT(A) is an ex-parte order and the discussion noted (supra) are not repeated for the sake of brevity. And as noted the Ld. CIT(A) has not adjudicated the grounds of appeal raised by the assessee in accordance to sub-section (6) of section 250 of the Act. Therefore, the impugned order of the Ld. CIT(A) is set aside and the appeal restored back to the file of Ld. CIT(A) to pass an order in accordance to sub-section (6) of section 250 of the Act. And the assessee is directed to be diligent and file written submission/relevant documents to support its grounds of appeal raised before Ld CIT(A), and request for hearing if it desires as per Rules, and the Ld. CIT(A) to pass orders in accordance to law after hearing the assessee.

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

Order pronounced in the open court on this 04/10/2023.

Sd/-
(ABY T. VARKEY)
JUDICIAL MEMBER

Allahabad दिनांक Dated : 04/10/2023.
Vijay Pal Singh, (Sr. PS)



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Copy forwarded to:

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

By order
Assistant Registrar