

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 935/DEL/2019
Assessment Year: 2010-11**

Mohita Patree, 403, J-3, 4 th Floor, Parshvanath Prestige, Plot no. 002, Sector 93A, Noida Distt. Gautam Budh Nagar. C/o Sanjiv Sapra & Associates LLP, CAs, C-763, New Friends Colony, New Delhi-110025. PAN- BDVPP6046A	<u>Vs</u>	Income-tax Officer, Ward-2(2), Noida.
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Ms. Raja Rajeshwari R, Sr. DR	
Date of hearing	16.11.2023	
Date of pronouncement	16.11.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, preferred by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-I, Noida, dated 28.09.2018, pertaining to the assessment year 2010-11. The assessee has raised following grounds of appeal:

2. At the time of hearing no one attended the proceedings on behalf of the assessee. It is seen from the record that no one has been attending the proceedings on behalf of the assessee since 26.10.2022 despite issue of notices for hearing at the address furnished by the assessee in form no. 36. Therefore, the appeal is taken up for hearing in the absence of the assessee and is being decided on the basis of material available on record.

3. Facts, in brief, are that case of the assessee was reopened for assessment on the basis that the AO was having information regarding purchase of immovable property by the assessee for a consideration of Rs. 51,00,000/- during F.Y. 2009-10. In response to the statutory notices, no one attended the proceedings. Therefore, the AO made addition of Rs. 53,83,700/- being the sale consideration and the stamp duty paid of such transaction. The AO framed assessment u/s 144 read with Section 147 of the Income-tax Act, 1961 (hereinafter referred to as the "Act"). Aggrieved against this, the assessee preferred appeal before learned CIT(A), who also dismissed the appeal on technical grounds. The basis for dismissal of the appeal was that the assessee had not complied with the provisions of Section 249(4)(b) of the Act. Aggrieved against this, the assessee is in appeal before this Tribunal.

4. Learned DR supported the orders of the lower authorities and submitted that there is no infirmity in the order of learned CIT(A) as the assessee failed to comply with the provisions of Section 249(4)(b) of the Act.

5. We have heard learned DR and perused the material available on record. The explanation for not filing of the return by the assessee is stated that the income was below taxable limit, therefore, the assessee was not required to file her return of income. The assessee has also made other submissions regarding legality of

reopening of the assessment. Therefore, considering the fact that the assessment order was passed ex parte to the assessee and the appeal of the assessee was not admitted on technical grounds, in the interest of principles of natural justice and to subserve the interest of substantial justice, we set aside the order of learned CIT(A) and restore this ground to the file of learned CIT(A) to decide it afresh after giving reasonable opportunity to the assessee for making effective representation against the issues raised by the learned CIT(A) for not admitting the appeal of the assessee. We order accordingly.

6. In the result, assessee's appeal stands allowed for statistical purposes only.

Order pronounced in open court on 16th November, 2023.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI