

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

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.2354/Del/2015
Assessment Year: 2010-11

Sh. Harjeet Singh, 1546/29, Nalwala, Karol Bagh, New Delhi	Vs.	Income Tax Officer, Ward-33(2), New Delhi
PAN :AMXPS5602D		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. Sandeep Mishra, Sr. DR

Date of hearing	29.11.2023
Date of pronouncement	07.12.2023

ORDER

PER SAKTIJIT DEY, VICE-PRESIDENT.

This is an appeal by the assessee against order dated 12.01.2015 of learned Commissioner of Income Tax (Appeals)-17, New Delhi for the assessment year 2010-11.

2. When the appeal was called out for hearing, none appeared on behalf of the assessee. Even, there is no application seeking adjournment. A perusal of record reveals that though, the appeal has been listed for hearing on multiple occasions, however, the

assessee has never cared to appear, despite notice. Even, several attempts by the Registry to serve notice on the assessee have failed. The last notice issued to the assessee through speed post has returned back unserved with the postal remark "LEFT". It is further relevant to observe, the appeal was earlier dismissed by the Tribunal vide order dated 05.06.2018 due to non-prosecution. Thereafter, the assessee filed a miscellaneous application for recalling the appeal order. Even, when the miscellaneous application was listed for hearing none appeared on behalf of the assessee. However, considering the fact that the appeal was dismissed in limine, the Bench recalled the appeal order and the appeal was listed for hearing afresh. However, the assessee has remained recalcitrant. Since, sufficient opportunity of being heard has been extended to the assessee, the Bench deems it appropriate not to grant further opportunity and proceed for hearing and dispose of the appeal ex-parte qua the assessee after hearing learned Departmental Representative and based on the materials available on record.

3. There is a delay of 17 days in filing the appeal. However, considering the averments made in the affidavit by the assessee,

we condone the delay and admit the appeal for adjudication on merits.

4. The assessee has raised the following grounds:

1. *That on the facts and circumstances of the case and the provision of law Ld CIT (Appeal) has failed to appreciate that the Asst. order passed u/s 143(3) of the IT Act by the Ld AO is illegal, bad in law, without jurisdiction and contrary to the facts.*
2. *That on the facts and circumstances of the case and the provision of law the appellate order passed by the Ld CIT appeal is against the principles of natural justice and has been passed without affording reasonable opportunity of being heard.*
3. *That on the facts and circumstances of the case and the provision of law Ld CIT Appeal has failed to appreciate that the assessment order passed by the Ld. AO is against the principles of natural justice and has been passed without affording reasonable opportunity of being heard.*
4. *That on the facts and circumstances of the case and the provisions of the law, the Ld. CIT Appeal has erred in sustaining an addition of Rs. 77,87,914/- on account of cash deposited in the bank as income of the appellant from undisclosed sources.*
5. *That on the facts and circumstances of the case and the provisions of the law, the Ld. CIT Appeal has erred in sustaining an addition of Rs. 2,62,804/- on account of interest expenditure on the loan raised for advancing as capital in the firm.*
6. *That on the facts and in the circumstances of the case the Ld. AO has erred in law in initiating the penalty proceedings u/s 271(1)(c) of the Income Tax Act 1961.*
7. *That the Ld. AO has erred in law in charging of interest u/s 234A & 234B of the IT Act.*
8. *That the appellant craves leave to reserve to itself the right to add, alter amend, vary, modify and/or withdraw and ground(s) of appeal at or before the time of hearing*

5. Briefly the facts are, the assessee is a resident individual. For the assessment year under dispute, the assessee filed his return of income on 16.08.2010 declaring income of Rs.2,22,410/-. In course of assessment proceedings, the Assessing Officer noticed that the assessee has claimed deduction towards interest paid of Rs.2,62,804/-. As alleged by the Assessing Officer, the assessee, despite repeated query, failed to furnish details of loan availed and its utilization. Since, no evidences were furnished by the assessee, the interest paid was disallowed. Further, the Assessing Officer found that, as per AIR information, the assessee has deposited cash of Rs. 1,41,48,000/- in the account maintained with Oriental Bank of Commerce. Noticing the above, the Assessing Officer called upon the assessee to explain the source of such cash. Initially, assessee did not comply with the queries raised by the Assessing Officer. However, subsequently, the assessee came forward to explain that the cash deposits were out of the cash withdrawals. After verifying the bank accounts and submissions of the assessee, the Assessing Officer was of the view that the cash deposit amounting to Rs. 59,18,000/- could possibly has come from earlier withdrawals. Therefore, he accepted the source of cash deposit to that extent

and added back the balance amount of Rs.77,87,914/-. Contesting the aforesaid addition, the assessee filed an appeal before learned first appellate authority. However, in course of proceedings before the first appellate authority, the assessee neither appeared, nor furnished any evidence to explain his case on merits. Therefore, learned first appellate authority affirmed the addition.

6. We have heard learned Departmental Representative and perused the materials on record. Insofar as the disallowance of interest paid of Rs.2,62,804/- is concerned, it is observed that neither before the Assessing Officer nor before learned first appellate authority, the assessee could furnish any evidence regarding the loan availed, on which the interest has been paid. Before us also, the factual position remains identical. Therefore, we do not find any valid reason to interfere with the decision of learned first appellate authority.

7. Insofar as addition of Rs.77,87,914/- is concerned, the assessee has deposited cash amounting to Rs.1,41,48,000/- in his bank account. Assessee's explanation that the deposits were out of the earlier withdrawals, was found to be acceptable in

respect of Rs.59,18,000/-. Therefore, the Assessing Officer granted relief to that extent.

8. Insofar as the balance amount of Rs.77,87,914/- is concerned, the assessee failed to furnish any credible evidence or explanation to explain the source of such deposit either before the Assessing Officer or before learned first appellate authority or even before us.

9. That being the factual position on record, we do not intend to interfere with the decision of learned first appellate authority.

10. Insofar as other grounds raised by the assessee regarding violation of principle of natural justice and lack of proper opportunity of being heard, we are not convinced. A perusal of the orders passed by the departmental authorities clearly reveal that the assessee was granted multiple opportunities to represent his case, which the assessee failed to avail. Therefore, we do not accept assessee's contention. Grounds are dismissed.

11. In the result, appeal is dismissed.

Order pronounced in the open court on 7th December, 2023

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 7th December, 2023.
RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi