

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'H': NEW DELHI)
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No:- 78/DEL/2020
(Assessment Year : 2011-12)**

Ritanshu Mahendru, 7259, Prem Nagar, Shakti Nagar, Delhi- 110007.	Vs.	ACIT, Circle 35(1), New Delhi.
APPELLANT		RESPONDENT
PAN No: AIWPM4544M		

Assessee By : None
Revenue By : Ms. Maimun Alam, Sr. DR

Date of Hearing : 17.01.2024
Date of Pronouncement : 19.01.2024

ORDER

PER SHAMIM YAHYA, A.M.

This appeal by the assessee is directed against the order of Ld. Commissioner of Income Tax (Appeal)-12, New Delhi, dated 30.10.2019 pertaining to Assessment Year 2011-12.

2. Brief facts of the case are that the Assessing Officer received the information in respect of transaction of Rs.54,03,000/- and cash deposit in the bank account amounting to Rs.20,20,000/-. The wife of the Assessee, joint account holder, stated

that the account was actually operated by Sh. Ritanshu Mahendru. The Assessing Officer issued the notice u/s 133(6) to the Assessee to explain the transaction. But no reply was received. Therefore, the Assessing Officer issued notice u/s 148 of the Act with the prior approval of the competent authority and duly served on the Assessee. The Assessee filed return of income in response to the notice u/s 148 of the IT Act. The Assessing Officer issued notice u/s 143(2) of the IT Act. The Assessee objected against the reasons recorded by the Assessing Officer. The Assessing Officer disposed off the objections vide letter dated 20.11.2018.

2.1 It was submitted during the assessment proceedings that the Assessee had advanced Rs.65 lacs and received Rs.71 lacs as cancellation. Rs.6 lacs was declared as income during the year. The Assessing Officer asked the Assessee to explain the cash deposits in the bank account. The Assessee submitted that Rs.71 lacs was received as advance cancellation. However, no documentary evidences were furnished. The Assessee did not furnish details of PAN, identity and copy of the ITR of the persons paying the amount to prove the genuineness of transaction. As such, the Assessing Officer added Rs.76,23,000/- to the total income.

3. Against the above order, the assessee filed an appeal before the Ld. CIT(A). Ld. CIT(A) noted that the assessee has stated that detailed statement of the facts would be furnished at the time of appellate proceedings. The assessee did not comply with the notices issued by the Ld. CIT(A), then the Ld. CIT(A) dismissed the assessee's appeal.

4. Against this, the assessee is in appeal before us.

5. We have heard the Ld. DR and perused the materials on record. None appeared on behalf of the assessee. We find that the Ld. CIT(A) has virtually dismissed the appeal due to non-prosecution. Further, we find that the Ld. CIT(A) has not adjudicated on the matter of the appeal before him; instead, he summarily dismissed the appeal of the assessee for not giving details. We find that Section 251 of the Income Tax Act dealing with the powers of Ld. CIT(A) does not provide for dismissal of the appeal for non-prosecution. Hence, in the interest of justice and we remit the issue to the file of the Ld. CIT(A). The Ld. CIT(A) shall pass speaking order after giving an opportunity to the assessee.

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

Order Pronounced in the Open Court on 19.01.2024

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 19 /01/2024
(Pooja)

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	17.01.24
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	