

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.728/DEL/2020
Assessment Year 2014-15

Nitin Chawla Shop No.5, C-80A, Moti Nagar Delhi	Vs.	ITO Ward-44(5) New Delhi
TAN/PAN: AFVPC6334B		
(Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri Anuj Garg, Sr.DR		
Date of hearing:	19	03	2024
Date of pronouncement:	21	03	2024

ORDER

PER PRADIP KUMAR KEDIA-AM:

The captioned appeal is directed against the first appellate order of the Commissioner of Income Tax (Appeals)-XIV, New Delhi ('CIT(A)' in short) dated 09.08.2019 arising from the assessment order dated 13.12.2016 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2014-15.

2. As per the captioned appeal, the assessee has challenged several additions made by the AO and confirmed by the CIT(A) aggregating to Rs.61,93,214/- on various grounds.

3. It is seen from the record that notice of hearing was duly served upon the assessee. As per the case records, none appeared from the assessee despite service of notice on several occasions. Accordingly, the matter was proceeded *ex-parte*.

3. On perusal of the first appellate order, we notice that the CIT(A) has dismissed the appeal in limine on the ground of non-prosecution of appeal by the assessee before him. The CIT(A) has passed a cryptic order without any cogent discussion on merit.

5. We straightway refer to Section 250(6) of the Act which enjoins that the CIT(A) shall state the points for determination before it and the decision shall be rendered on such points along with reasons for the decision. Thus, it is incumbent upon the CIT(A)

to deal with the ground on merits even in *ex parte* order. In view of Section 250(6) of the Act, the CIT(A) has no power to dismiss an appeal on account of non-prosecution. This view is also taken by the Hon'ble Bombay High Court in case of *CIT vs. Premkumar Arjundas Luthra HUF*, (2017) 291 CTR 614 (Bom.). A bare glance of the order of the CIT(A) shows that CIT(A) has not addressed itself on various points placed for its determination at all and dismissed the appeal of assessee for default in non appearance. Needless to say, the CIT(A) plays role of both adjudicating authority as well as appellate authority. Thus, the CIT(A) could not have shunned the appeal for non-compliance without addressing the issue on merits.

6. In the totality of the circumstances, we consider it just and expedient to restore the matter back to the CIT(A) in the larger interest of justice with a view to enable the assessee to avail proper opportunity for disposal of appeal by the CIT(A) on various points. The assessee is cautioned to extend full co-operation to the CIT(A) without any demur, failing which, the CIT(A) shall be at liberty to conclude the appellate proceedings in accordance with law. Hence, the order of the CIT(A) appealed against, is set aside and all the issues raised in the impugned appeal are restored back to the file of the CIT(A) for fresh adjudication in accordance with law after giving reasonable opportunity of hearing to the assessee.

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

Order pronounced in the open Court on 21/03/2024

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

DATED: /03/2024

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**