

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

ITA No.1380/Del/2021  
Assessment Year 2017-18

<b>Rajbir Khatana</b> 268-269, Sector-15A, Hisar, Haryana	Vs.	<b>ITO, Ward-3</b> Hisar
TAN/PAN: AYCPK1459K		
(Appellant)		(Respondent)

Applicant by:	Shri Saurabh Jain, Chartered Accountant		
Respondent by:	Shri Amit Katoch, Sr.DR		
Date of hearing:	15	07	2024
Date of pronouncement:	27	08	2024

**ORDER**

**PER PRADIP KUMAR KEDIA - A.M.:**

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ['CIT(A)' in short] dated 30.07.2021 arising from the assessment order dated 30.12.2019 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning A.Y. 2017-18.

2. As per the grounds of appeal, the assessee has challenged the addition of Rs.1,38,43,500/- on account of unexplained source of cash deposit in the bank account.

3. When the matter was called for hearing, the ld. counsel for the assessee pointed out at the outset that the notice for hearing before CIT(A) was never communicated to the assessee by physical mode.

It is not known as to how the notice of hearing has been served and on to whom such notices were served. The Id. counsel thus submitted that the CIT(A) has passed the order *ex-parte* and dismissed the appeal *in limine* for want of prosecution by the assessee without adjudicating the appeal on merits as incumbent in law under Section 250(6) of the Act. Neither the point for determination was capsuled by the CIT(A) nor the decision thereon and the reasons for such decisions if any, are provided in the first appellate order.

4. The Id. counsel thereafter referred to the Appeal Memo in Form No.35 filed by the assessee before the CIT(A) wherein an option was given to the assessee towards choice of mode of service of notice. As against the column '*whether notices / communication may be sent on e-mail?*'; the assessee stated '*No*'. Thus, the notice could not be sent by e-mail and no physical notice has been claimed to be served.

5. The Id. counsel thereafter pointed out that the assessee is an agriculturist and lacks knowledge in information technology system / computers / e-mail / internet etc. The assessee also lacks in English language. The assessee has remained completely unaware about the assessment proceedings as well as the first appellate proceedings. Under the circumstances owing to non service of notice physically, the Id. counsel urged for suitable relief on the grounds of violation of principle of natural justice.

6. The Id. DR for the Revenue did not offer any fresh comment on the limited submissions made on violation of principle of natural justice.

7. On perusal of the case records and the paper book filed, it is

manifest that the assessee had categorically asked for communication related to appeal by physical delivery. As claimed on behalf of the assessee no such physical delivery was provided. The assessee thus claims to be totally unaware of the ongoing first appellate proceedings and could not respond to support the grounds of appeal raised before the CIT(A). Coupled with this, the CIT(A) has not adjudicated the appeal on merits. We thus find that the first appellate order has been passed in negation of principle of natural justice. Hence, we set aside the first appellate order and restore the issues raised before the CIT(A) for fresh adjudication in accordance with law after giving proper opportunity to the assessee. The CIT(A) shall pass speaking order after taking into account the explanations and evidences in support of his grounds.

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

**Order pronounced in the open Court on August, 2024.**

Sd/-  
[SUDHIR PAREEK]  
JUDICIAL MEMBER

Sd/-  
[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER

DATED: August, 2024  
*Prabhat*