

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

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.799/Del/2023
Assessment Year: 2019-20

Sh. Rajeev Kumar Goel, F 136, Swamy Dayanand Colony, Sarai Rohilla, New Delhi	Vs.	ACIT, Central Circle-20, Delhi
PAN :AHDPG5863F		
(Appellant)		(Respondent)

Assessee by	Sh. Somil Agarwal, Advocate
Department by	Sh. P.N. Barnwal, CIT(DR)

Date of hearing	03.09.2024
Date of pronouncement	09.09.2024

ORDER

PER SAKTIJIT DEY, VICE-PRESIDENT

This is an appeal by the assessee against order dated 27.02.2023 of learned Commissioner of Income-tax (Appeals)-27, New Delhi, for the assessment year 2019-20.

2. We have heard the parties and perused the materials on record. The basic grievance of the assessee is against ex-parte

disposal of his appeal, without providing adequate opportunity of being heard.

2. Briefly stated, the assessee is a resident individual. A search and seizure operation under section 132 of the Act was conducted in case of M/s. Faquir Chand Lockers and Vaults Pvt. Ltd., whereunder, assessee's locker No. 124 was also covered. For the assessment year under dispute, the assessee filed his return of income on 22.03.2020, declaring income of Rs.2,04,87,150/-. As observed by the Assessing Officer, in course of search and seizure operation, cash amounting to Rs.2 crores was found and seized from assessee's locker. In course of assessment proceedings, the Assessing Officer called upon the assessee to explain the source of such cash. Though, the assessee filed explanation explaining the source of cash and stated that it is out of his regular business, however, the Assessing Officer was not convinced. Ultimately, he treated it as income from other sources. Against the assessment order so passed, assessee preferred an appeal before learned first appellate authority. However, the appeal was decided *ex-parte* confirming the assessment order.

3. Before us, it is the say of the assessee that without providing adequate opportunity of being heard, the appeal has been disposed of. Learned Departmental Representative opposed assessee's contention. However, he did not raise objection against restoration of issues to learned Commissioner (Appeals) for *de-novo* adjudication.

4. Having considered the submissions of the parties, we find that before the first appellate authority the assessee had raised certain additional grounds challenging the decision of the Assessing Officer in applying the provisions of section 69A read with section 115BBE of the Act. It is also observed, though the assessee had offered the income as business income, however, the Assessing Officer has treated it as undisclosed income under the head 'income from other sources'.

5. In our view, in the interest of justice, the assessee should be given opportunity to furnish evidence and make submissions to establish his case that the income in dispute is from business, which he may not have got because of *ex-parte* disposal of the appeal.

6. In view of the aforesaid, we are inclined to set aside the impugned order of learned first appellate authority and restore the issues arising in the appeal to his file for *de novo* adjudication after providing due and reasonable opportunity of being heard.

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

Order pronounced in the open court on 9th September, 2024

**Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

**Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT**

Dated: 9th September, 2024.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi