

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

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.3508/Del/2015
Assessment Year: 2007-08

Harish Chanana SD-185, Pitampura Delhi PAN No.AAFPC2783D	Vs	ITO Ward- 39 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellants by	Sh. Pranav Yadav, Advocate
Respondent by	Sh. Ramesh Chand, Sr. DR

Date of hearing:	29/08/2024
Date of Pronouncement:	09/10/2024

ORDER

PER SUDHIR KUMAR, JM:

The above captioned appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-XXVIII, New Delhi [hereinafter referred to as "CIT(A)"], vide order dated 15.09.2010 pertaining to A.Y.2007-08 arises out of the order passed by the Assessing Officer dated 21.12.2009 u/s 144 of the Income Tax Act,1961[hereinafter referred as 'the Act']

2. The assessee has raised the following grounds of appeal :-

1. *On the facts and circumstances of case and in law, the assessment officer u/s. 144 is bad in law and void and commissioner of Income Tax (Appeals) erred in not holding so.*
2. *On the facts and circumstances of case and in law, the Commissioner of Income Tax (Appeal) erred in confirming the addition of Rs.80,000/- made by the assessing officer on account of alleged unexplained loans.*
3. *On the facts and circumstances of case and in law, the Commissioner of Income Tax (Appeal) erred in confirming the addition of Rs.55,000/- made by the assessing officer on account of alleged unexplained sundry creditors.*
4. *On the facts and circumstances of case and in law, the Commissioner of Income Tax (Appeal) erred in confirming the addition of Rs.44,00,000/- made by the assessing officer on account of alleged unexplained investment.*
5. *On the facts and circumstances of case and in law, the Commissioner of Income Tax (Appeal) erred in confirming the addition of Rs.56,01,000/- made by the assessing officer on account of alleged unexplained cash deposits in bank.*
6. *On the facts and circumstances of case and in law, the order passed by the assessing officer and*

Commissioner of Income Tax (Appeal) are against the principles of natural justice as no proper opportunity was provided to the appellant.

3. The Ld. AR has filed an affidavit by stating that for A.Y. 2007-08, the return of income filed in assessee's name was neither signed by him nor it was filed with his consent. He never purchased nor ever been owner of any plot for which addition of Rs.44,00,000/- was made in the assessment order and his wife suffering from cancer and not able to properly explain her case before assessing officer and CIT(A).

3.1 The AO in absence of cooperation from the side of the assessee and in the absence of any documentary evidence on record proceeded to pass ex-parte assessment order under section 144 of the Act. The AO has noted that assessee has taken unsecured loans from Sh. Praveen Chanana and Shri Satish Chanana and such unsecured loans have increased in assessment year by Rs.80,000/-. In the absence of any confirmation and documentary evidences on record, the AO made the addition of Rs.80,000/-. Further there is an increase in the account of sundry creditors of Rs.55,000/-. The AO further noted that balance-sheet of the assessee shows an amount of Rs. 44 lakhs under the Head "Advance against sale of plot. The assessee was asked to prove the source of the same. But, in the absence of any evidence on record, AO made addition of Rs.44 lakhs. Similarly, there is a cash deposit worth Rs.56,01,000/- in

Central Bank of India, Bhagat Singh, Gole Market Branch, New Delhi belonging to the assessee and the source of cash deposit was not explained. The AO, therefore, made the addition of Rs.56,01,000/-.

3.2 The Ld. CIT(A) noted that at the initial appellate proceedings there was no compliance from the side of the assessee and thereafter, adjournments were sought many times. The assessee also filed submissions, but, ultimately, nobody appeared before the ld. CIT(A). Therefore, appeal was decided on the basis of the written submissions filed by the assessee. The Ld. CIT(A) on all the four additions noted that assessee did not produce any evidences on record, therefore, appeal of assessee were dismissed.

4. The Ld. DR relying upon the orders of the authorities below.

5. We have heard the rival arguments and perused the material available on record. We have given a thoughtful consideration to the submission of the Counsel we are of the considered opinion that the assessee was prevented by reasonable and sufficient cause for not attend the assessment as well as appellate proceedings. Therefore, in the interest of justice and fair play we restore the issues to the files of the AO to be decided afresh after affording a reasonable and sufficient opportunity of being heard to the assessee.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 09.10.2024.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

NEHA, Sr. PS

Date:- 09.10.2024

Copy forwarded to:

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

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI