

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI
BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No.2032/Del/2022
(ASSESSMENT YEAR 2017-18)

SHRI RAJESH CHAUDHARY, 147-148, K C ROAD, FARIDABAD, HARYANA-110019 PAN NO AFSPC1241A (Appellant)	Vs.	DCIT, CENTRAL CIRCLE-31, NEW DELHI (Respondent)
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Assessee by	Shri Aman Garg, CA
Respondent by	Shri Shyam Manohar, Sr. DR

Date of Hearing	28/10/2024
Date of Pronouncement	12/11/2024

ORDER

PER VIMAL KUMAR, JM:

The appeal of the Assessee is against order dated 27/01/2022 passed by Learned Commissioner of Income Tax(Appeals), Delhi [hereinafter referred to as 'Ld. CIT(A)'] arising out of Assessment Order dated 30.12.2019 passed by the Assessing Officer, DCIT, Central Circle-31, New Delhi [hereinafter referred to as "Ld. AO"] for the Assessment Year 2017-18.

2. The facts of the case are that appellant/assessee filed original return under Section 139(1) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) on 13.03.2018 declaring nil income and claiming loss of Rs. 5,03,355/- . Search under Section 132 of the Act was conducted on 14.09.2017 at business/residential premises of the assessee and various papers and documents were found and seized. Assessment jurisdiction over the assessee was transferred to the Office of Deputy Commissioner of Income Tax, Central Circle-31, New Delhi by the Principal Commissioner of Income Tax, Faridabad vide order under Section 127(1) of the Act dated 08.03.2018. Due to search a notice under Section 153A of the Act was issued on 28.02.2019 requiring assessee to furnish return of income for the year. In response to notice under Section 153A return was e-filed on 02.09.2019 declaring nil income and claiming loss of Rs.5,03,355/-. Notice under Section 143(2) was issued on 24.09.2019. Notice under Section 142(1) of the Act along with questionnaire was issued. Assessee made statement on oath under Section 132(4) of the Act on 14.09.2017 stating that he had taken loan of Rs. 58 to 60 lacs from Shri Ishwar Singh and Rs.15 lacs from Shri Bhim Singh in financial year 2016-17. The assessee was required to explain the same vide notice under Section 142(1) dated 15.10.2019. The assessee furnished no details in respect of the transactions. Penalty proceedings under Section 271D of the Act were initiated separately in contravention of provisions under Section 269SS of

the Act. Learned AO completed assessment proceedings vide order dated 30.12.2019. Appellant/assessee preferred appeal before learned CIT(A) which was dismissed vide order 27.01.2022.

3. Being aggrieved, appellant/assessee preferred present appeal.

4. At the time of hearing, Learned authorized representative of the appellant/assessee submitted that Learned CIT(A) erred in not appreciating that the appeal was against ex-parte assessment order. Learned CIT(A) passed ex-parte order without appreciating that the appellant had submitted explanation in response to notice issued to him for the Assessment Year 2018-19 and the assessee could not furnish submissions for the Assessment Year 2017-18 as the submissions were filed on year to year basis. The non-submission of reply before Learned CIT(A) was not intentional. The matter may be restored to the file of Learned AO.

5. Learned authorized representative for department of the revenue submitted that assessee had failed to submit his reply/submissions.

6. From examination of record in light of aforesaid rival contentions it is crystal clear that appellant due to illness failed to appear in assessment proceedings and appellate proceedings before Ld AO and Ld.CIT(A). In view of above material facts in interest of justice, it is expedient to restore the matter to the file of Ld. AO for fresh decision in accordance with Law.

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

Order pronounced on 12th November, 2024.

sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

Dated: 12/11/2024

Dp/ sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI