

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.1325/दिल्ली/2025 (नि.व. 2012-13)
ITA No.1325/DEL/2025 (A.Y.2012-13)

Virender Kumar,
249, Samaspur Khalsa, Ujwa,
Delhi 110073

PAN: ASFPK-4031-L

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer, Ward-43(1),
Civic Centre, Minto Road, New Delhi 110002

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Manoj Pahwa, Chartered Accountant

प्रतिवादीद्वारा/ Respondent by : Shri Manoj Kumar, Sr. DR

सुनवाई की तिथि/ Date of hearing : 21/05/2025

घोषणा की तिथि/ Date of pronouncement: : 21/05/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against an ex-parte order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 13.11.2024, for assessment year 2012-13.

2. Shri Manoj Pahwa, appearing on behalf of the assessee submits that on the basis of information received through AIR and CIB, the Assessing Officer (AO) initiated proceedings u/s. 147 r.w.s 148 of the Income Tax Act,1961(hereinafter referred to as 'the Act') on the ground that there were cash deposits to the tune of Rs.33,62,790/- in the saving bank accounts of the assessee during Financial Year

2011-12. The AO purportedly issued notices u/s. 148 and 142(1) of the Act. The said notices were never served on the assessee physically. The assessee is an illiterate who neither understands English nor is aware about operating an email account. Thus, there was no participation by the assessee during assessment proceedings. The AO invoked the provision of section 144 of the Act and completed assessment vide order dated 08.12.2019. Against said assessment order the assessee filed appeal before the CIT(A). Even before the CIT(A) there was no representation from the assessee's side as the Counsel for the assessee never shared with the assessee about proceedings before the CIT(A). The Id. AR prayed for an opportunity to make submissions before the lower authorities. The Id. AR submitted that the assessee has *prima facie* good case in his favour and would be able to explain source of cash deposits in his bank account during the relevant period.

3. Per contra, Shri Manoj Kumar representing the department vehemently defended the impugned order and prayed for dismissing appeal of the assessee. He submitted that the assessee is non compliant. Despite repeated notices, the assessee neither appeared before the AO nor responded to the notices of the CIT(A).

4. Both sides heard, orders of the authorities below examined. This appeal by the assessee is against ex-parte order by the CIT(A). The CIT(A) has dismissed appeal of assessee in *limine* for want of prosecution. It is a settled legal principle that the CIT(A) cannot dismiss appeal of the assessee for non prosecution. The provision of section 250 of the Act mandates the CIT(A) to pass orders on merits only.

5. Considering entire facts of the case and documents on record, I observe that the assessee was not able to present his case either before the AO or the CIT(A), therefore, I deem it appropriate to restore this matter back to the Assessing Officer for *denovo* assessment after affording reasonable opportunity of making submissions to the assessee, in accordance with law.

6. In the result, impugned order is *set aside* and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 21st day May, 2025.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 21.05.2025

NV/-

प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI