

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

**Before Sh. N. K. Saini, Accountant Member**

**ITA No. 5483/Del/2016 : Asstt. Year : 2009-10**

Kavita, W/o-Virendra Singh, 235, Avas Vikas Colony, Muzaffarnagar	Vs	Income Tax Officer, Ward-1(3), Muzaffarnagar
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. BAMPK7339B</b>		

**Assessee by : Sh. K. L. Aneja, Adv.  
Revenue by : Sh. Amrit Lal, Sr. DR**

<b>Date of Hearing : 15.05.2017</b>	<b>Date of Pronouncement : 17.05.2017</b>
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**ORDER**

This is an appeal by the assessee against the order dated 24.08.2016 of ld. CIT(A), Muzaffarnagar.

2. Following grounds have been raised in this appeal:

*“1.1 That the Ld. AO has erred in law and on facts in making assessment u/s 144 /148, without effecting proper service of notice u/s 148 or 142 (1) as stated in ex-parte order passed by the A.O.*

*1.2 That the Ld. CIT (Appeal) has erred in confirming AO's order u/s 144/148 of the Act.*

*2.1 That the AO has erred in making an addition of Rs.847165/- on account of unexplained deposits in the Bank account u/s 69A of the Act.*

*2.2 That the Ld. CIT(A) erred in law on facts in confirming the addition of Rs. 847165/-made by the A.O.*

*ignoring the agri. Background of the appellant and family members earning agriculture income and enjoying sale proceeds of popular trees grown over the lands.*

*3. THAT the Ld. CIT(A) was wrongly influenced of the adverse observations contained in AO's ex-parte order passed without effecting proper services of the various notices issues and not properly served upon the appellant, resulting in addition of Rs.847165/- towards appellant's income which is a great hit, unjust and deserve to be knocked out.*

*4. THAT the appellant reserves its rights to add, amend or modify any ground of appeal before final adjudication.”*

3. Vide Ground No. 3, the assessee is aggrieved against the action of the AO in passing the assessment order *ex-parte* and vide Ground No. 1.2, the assessee is aggrieved against the action of the Id. CIT(A) in confirming the order passed by the AO *ex-parte*.

4. The Id. Counsel for the assessee submitted that the Id. CIT(A) passed the impugned order *ex-parte* without affording a due and reasonable opportunity of being heard to the assessee and the AO also did not afford proper opportunity of being heard while framing the assessment *ex-parte*. He requested that the matter may be sent back to the AO for adjudication after providing a due and reasonable opportunity of being heard to the assessee.

5. In his rival submissions the Id. DR submitted that the assessee did not cooperate and never appeared either before the AO or the Id.

CIT(A). Therefore, there was no option except to pass the assessment or the impugned order *ex-parte*.

6. I have considered the submissions of both the parties and perused the material available on the record. In the present case, it is an admitted fact that the AO passed the assessment order *ex-parte* u/s 144 of the Income Tax Act, 1961 and the Id. CIT(A) also passed the impugned order *ex-parte*. He simply stated that the notices of hearing were issued on 15.06.2016 and 12.08.2016 and there was no compliance, however, he nowhere stated that the notices of hearing were served upon the assessee. I, therefore, keeping in view the principles of natural justice, deem it appropriate to set aside this issue back to the file of the AO to be adjudicated afresh in accordance with law after providing a due and reasonable opportunity of being heard to the assessee.

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

(Order Pronounced in the Court on 17/05/2017)

**Sd/-**  
**(N. K. Saini)**  
**ACCOUNTANT MEMBER**

**Dated: 17/05/2017**

\*Subodh\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**