

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "SMC-2" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.9684/Del/2019
Assessment Year : 2016-17**

Rohit Dhupar, D-942, New Friends Colony, New Delhi-110065. PAN-AAFPD5114P	vs	ITO, Ward-28(1) New Delhi.
APPELLANT		RESPONDENT
Appellant by	Sh. Amit Kaushik, Advocate	
Respondent by	Sh. R.K.Gupta, Sr.DR	
Date of Hearing	25.05.2021	
Date of Pronouncement	14.06.2021	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2016-17 is directed against the order of learned CIT(A)-10, New Delhi dated 24.10.2019.

The assessee has raised following grounds of appeal:-

- 1. "That the CIT(A) grossly erred in law and on the facts and circumstances of the case in confirming an addition of Rs 12,22,301/- to the income of the Appellant.*
- 2. That the CIT(A) grossly erred in law and on the facts and circumstances of the case in confirming an addition of Rs 12,22,301/- to the income of the Appellant by dismissing the appeal in-limine.*
- 3. That the CIT(A) as well the Ld. AO grossly erred in law and on the facts and circumstances of the case in confirming an addition of Rs. 12,22,301/- without following the principles of natural justice.*

4. That the CIT(A) grossly erred in law and on the facts and circumstances of the case in confirming an addition of Rs.12,22,301/- without appreciating the fact that the Ld. AO had taken the valuation of purchases on which the customs duty was payable as the amount of actual purchase.

5. That the CIT(A) grossly erred in law and on the facts and circumstances of the case in confirming an addition of Rs. 10,97,554/- to the income of the Appellant on account of unexplained expenses.

6. That the CIT(A) grossly erred in law and on the facts and circumstances of the case in confirming an addition of Rs. 1,22,747/- to the income of the Appellant.

7. That on facts and in law, the Ld. AO erred in initiating penalty proceedings under section 271(1) (c) of the Income Tax Act, 1961.

8. The Ld. AO has erred in levying interest under section 234B and 234C of the Act.

9. The Appellant craves for leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.

10. That all the grounds are without prejudice to each other.”

2. Facts giving rise to the present appeal are that the assessee e-filed return of income for the year under appeal on 20.09.2016 declaring income of Rs.8,28,250/-. The case was selected for limited scrutiny. Accordingly, statutory notice was issued and served upon the assessee. During the course of assessment, the Assessing Officer observed that the assessee had shown total imports for an amount of Rs.12,19,006/- wherein as per data available on portal, there was an import for an amount of Rs.23,16,560/-. Hence, the

assessee was asked to explain and reconcile the difference. The Assessing Officer further observed that on the date fixed for hearing, neither any one appeared nor any reply was filed. The Assessing Officer made addition of Rs.1,22,747/- and Rs.10,97,554/- in respect of business income, not offered for tax and unexplained expenses for purchases respectively.

3. Aggrieved against this, the assessee preferred appeal before Ld. CIT(A). Before Ld. CIT(A), there was no representation on behalf of the assessee. Therefore, the addition made by the Assessing Officer was sustained ex-parte and the appeal was dismissed.

4. Aggrieved against this, the assessee is in appeal before this Tribunal.

5. Ld. Counsel for the assessee vehemently argued that the assessee was not given sufficient opportunity and in the interest of principle of natural justice, he may be given atleast one opportunity to explain his case. He further submitted that after violation of principle of natural justice, addition made by the Assessing Officer has been sustained thereby, the assessee has suffered gross miscarriage of justice.

6. On the contrary, Ld. Sr. DR submitted that the assessee has been negligent throughout. He himself chose not to reply to the query raised by the Assessing Officer. He further did not attend the proceedings despite having been issued notice by Ld.CIT(A).

7. I have heard the rival contentions and perused the material available on record. It is seen that the notices were sent on 01.05.2019, 12.06.2019 and

20.09.2019 through email, however, no one attended the proceedings. It is contended by Ld. Counsel for the assessee that the assessee had not received any notice sent through email. It was further submitted that the last opportunity be granted in the interest of principles of natural justice. After considering the submissions of both the parties, I deem it proper to set aside the impugned order in the interest of principles of natural justice and restore the grounds raised by the assessee in this appeal to Ld.CIT(A) to decide the matter afresh and the assessee is directed to appear before Ld.CIT(A) as and when, so directed. The assessee is further directed not to seek any adjournment without any reasonable cause related to any medical emergency etc. The grounds raised by the assessee are thus, allowed for statistical purposes.

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

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 14th June, 2021.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI