

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC-1 : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1719/Del/2019
Assessment Year: 2010-11

Santosh Sahi,
B-497, New Friends Colony,
New Delhi.

Vs ITO,
Ward-61(5),
New Delhi.

PAN: AAWPS8472Q

(Appellant)

(Respondent)

Assessee by	:	Shri Subhash Singhal, CA
Revenue by	:	Shri Rajesh Kumar Dhanesta, Sr. DR
Date of Hearing	:	28.07.2021
Date of Pronouncement	:	28.07.2021

ORDER

This appeal filed by the assessee is directed against the ex parte order dated 31st January, 2019 of the CIT(A)-20, New Delhi, relating to assessment year 2010-11.

2. Although a number of grounds have been raised by the assessee, these all relate to the ex parte order of the CIT(A) in confirming the addition of Rs.1,78,023/- to the total income of the assessee on account of income from house property.

3. Facts of the case, in brief, are that the assessee is an individual. Since the assessee had earned interest income and rental income and fee for professional technical services to the tune of Rs.9,06,450/-, the AO issued a verification letter to the assessee on 21.03.2017 which remained uncomplied. He further noted that the assessee has not filed his return of income for the impugned assessment year. He, therefore, reopened the assessment u/s 147 of the Act after recording reasons and notice u/s 148 was issued to the assessee on 31.03.2017. However, no compliance was made to the said notice. Subsequently, the AO issued notice u/s 142(1) to the assessee on various dates which also remained uncomplied. The AO, therefore, issued a final reminder to the assessee to which the assessee filed certain details. In absence of complete details filed by the assessee, the AO, invoking the provisions of section 144 of the IT Act, determined the total income of the assessee at Rs.5,50,850/- wherein he made addition of Rs.1,78,023/- on account of suppressed rental income.

4. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the Id.CIT(A), in the ex parte order passed by him, confirmed the addition made by the AO.

5. The Id. Counsel submitted that the assessee has filed an adjournment application through e-mail. However, the Id.CIT(A), without considering the same, passed the ex parte order. He submitted that the Id.CIT(A), in the instant case, has not given proper opportunity to the assessee to substantiate her case. He

requested that in the interest of justice, the assessee should be given one opportunity to substantiate her case.

6. The ld. DR, on the other hand, submitted that the assessee is a habitual defaulter and has scant regard for the due process of law. He submitted that the assessment was completed u/s 144 of the Act by the AO and there was no appearance before the CIT(A). He accordingly submitted that the order of the CIT(A) should be upheld.

7. I have considered the rival arguments made by both the sides and perused the record. It is an admitted fact that due to non-furnishing of requisite details, the AO completed the assessment u/s 144/147 of the Act determining the total income of the assessee at Rs.5,50,850/- wherein he made addition of Rs.1,78,023/- on account of suppressed rental income. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the ld.CIT(A) in the ex parte order passed by him, sustained the addition. It is the submission of the ld. Counsel that on the last date of hearing, the assessee had moved an adjournment application and the same was not considered by the CIT(A). It is also his submission that given an opportunity, the assessee is in a position to explain her case. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate her case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and

explain her case without seeking any adjournment under any pretext, failing which the Id.CIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Pronounced in the open court at the time of hearing itself, i.e., on

28.07.2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 28th July, 2021

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Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi