

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER
[Through Video Conferencing]**

ITA No.658/Del/2020
Assessment Year: 2011-12

Sh. Karamveer Aggarwal, 214, Harsh Vihar, Pitampura, New Delhi	Vs.	ITO, Ward-39(5), New Delhi
PAN :ADSPA6093J		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Sh. R.K. Gupta, Sr. DR

Date of hearing	28.06.2021
Date of pronouncement	28.06.2021

ORDER

PER O.P. KANT, AM:

This appeal by the assessee is directed against order dated 5/12/2019 passed by the Learned Commissioner of Income Tax (Appeals), Delhi-13 [in short 'the Ld. CIT(A)'] for assessment year 2011-12 raising following grounds:

1. *The learned CIT(A)-XIII erred in confirming the addition made by assessing authority without appreciating the facts and circumstances of the case.*

2. *That the Ld. CIT(A)-XIII has dismissed the appeal without affording proper opportunity to the assessee. That the assessee has not received any notice by post or by hand.*
3. *That Ld. CIT(A)-XIII has passed order without serving any statutory notice is bad in law and against the principal of natural justice and should be quashed ab-initio.*
4. *Assessee has every right to make, add, delete, modify or alter any ground of appeal at the time of hearing.*

2. Briefly stated facts of the case are that assessment for the year under consideration was reopened by way of issue of notice dated 31/03/2018 under section 148 of the Income-tax Act, 1961 (in short 'the Act'). In response to the notice, the assessee filed a return of income on 26/11/2018, declaring income of ₹ 5,58,200/-. Subsequently, statutory notices were issued to the assessee. In the assessment completed on 31/12/2018 under section 147 read with section 143 of the Act, the Assessing Officer made addition of ₹16.66 lakhs on account of transaction of sale of agricultural land. Aggrieved, the assessee filed appeal before the Ld. CIT(A). Before the Ld. CIT(A), none attended on behalf of the assessee, and therefore he passed *ex parte* order and confirmed the finding of the Assessing Officer. Aggrieved, the assessee is in appeal before the Income-tax Appellate Tribunal (in short 'the Tribunal') raising the grounds as reproduced above.

3. Despite notifying, neither anyone attended on behalf of the assessee, nor any adjournment application was filed on behalf of the assessee, and therefore matter was heard *ex parte* qua the assessee, after hearing arguments of the Learned Departmental Representative (DR).

4. We have heard submission of the Learned Departmental Representative and perused the relevant material on record. We

find that the Assessing Officer has made addition for 1/3rd part of the sale agreement dated 22.10.2010 of agriculture land. In the assessment order, the Assessing Officer himself has mentioned that addition was made in absence of any details. The Ld. CIT(A) completed the appeal proceeding within a period of three months. The Ld. CIT(A) has mentioned adjournment application filed by the assessee for hearing dated 12/09/2019, 03/10/2019 and 22/10/2019. The Learned CIT(A) has mentioned that the assessee did not attend on 13/11/2019 and in view of non-compliance, she passed *ex parte* order confirming the addition made by the Assessing Officer.

4.1 Before us in the grounds raised, the assessee submitted that appellate order has been passed without providing any proper opportunity of hearing to him. The assessee has even contested that no notice were received by him. Without going into the issue whether notices were served upon him or not, in our opinion, the addition has been sustained without proper verification of details of transaction of sale of land and source of investment thereof. The appeal proceedings have been closed within a period of three months after issue of the first notice. The assessee has not been represented before us also but looking to the period of the pandemic and facts and circumstances of the case, we are of the opinion that, in the interest of substantial justice, the assessee must be provided an opportunity to explain the said transaction of the sale of land dated 22/10/2010 and how the said income has been taken into account for filing return of income. Accordingly, we set aside the order of the Ld. CIT(A) and restore the appeal back to her for deciding afresh, after providing

adequate opportunity of being heard to both the assessee and the department. The assessee is also directed to make compliance before the Ld. CIT(A) and file all the necessary documents and evidence in support of his claim. The grounds of the appeal are accordingly allowed for statistical purposes.

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

Order pronounced in the open court.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Dated: 28th June, 2021.

RK/-^(DIDS)

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi