

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

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.1469/Del/2020  
Assessment Year : 2010-11**

Seema Chauhan, 440, Defence Colony, Hisar, Haryana-125001. PAN-AGEPC5627R	vs	ITO, Ward-4, Hisar.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>		Sh. Lalit Mohan, CA
<b>Respondent by</b>		Sh.Gaurav Pundir, Sr. DR
<b>Date of Hearing</b>		19.07.2021
<b>Date of Pronouncement</b>		23.07.2021

**ORDER**

**PER KUL BHARAT, JM :**

This appeal filed by the assessee for the assessment year 2010-11 is directed against the order of Ld. CIT(A), Hisar dated 28.02.2019. The assessee has raised following grounds of appeal:-

1. *"That the learned Commissioner of Income Tax (Appeals), Hisar has erred both in law and, on facts in upholding the determination of income made by the learned Income Tax, Officer, Ward-4, Hisar of the appellant at Rs.17,68,200/- in an order of assessment dated 22.12.20179 U/S 144/143(3)/147 of the Act.*
2. *That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in disposing off the appeal ex-parte without granting any fair opportunity of being heard to the appellant.*

- 2.1. *That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that there was reasonable cause for the appellant for not causing appearance on the dates fixed for hearing and as such disposal of the appeal without granting fair, meaningful and proper opportunity is untenable.*
- 2.2. *That even otherwise, an order passed in limini without effectively disposing of the grounds raised by the appellant is in infraction of section 250(6) of the Act and as such, order so made is otherwise too illegal, invalid and a vitiated order.*
3. *That the learned Commissioner of Income Tax (Appeals) has grossly erred both in law and on facts in upholding the initiation of proceedings under section 147 of the Act and, completion of assessment under section 144/147/143(3) of the Act without appreciating that the same were without jurisdiction and hence deserved to be quashed as such.*
4. *That the learned Commissioner of Income Tax (Appeals) has also erred both in law and on facts in sustaining an addition of Rs.15,79,800/- representing cash deposits in the bank account of the appellant maintained with ICICI Bank Ltd.”*

2. Facts giving rise to the present appeal are that the case of the assessee was re-opened on the ground of cash deposited in the bank account. Thereafter, the Assessing Officer proceeded for framing the assessment u/s 144 r.w.s. 143(3)/147 of the Income Tax Act, 1961 (“Act”) and made addition of Rs.15,79,800/- against the income declared by the assessee at Rs.1,88,400/-.

3. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A). Before Ld.CIT(A) also, there was no representation on behalf of

the assessee. Therefore, the appeal of the assessee was dismissed ex-parte to the assessee.

4. Aggrieved against this, the assessee preferred appeal before this Tribunal.

5. At the outset, Ld. Counsel for the assessee submitted that there was no reasonable opportunity provided by Ld.CIT(A). He submitted that in the interest of principles of natural justice, an opportunity may be granted to the assessee to represent his case atleast before First Appellate Authority. He submitted that no prejudice would be caused to the Revenue if the matter is restored to the Ld.CIT(A) rather it would sub-serve in the interest of principles of natural justice. Therefore, he prayed that the matter should be restored to Ld.CIT(A) for decision on merit.

6. On the contrary, Ld. Sr. DR opposed these submissions and supported the order of the authorities below.

7. I have heard contentions of both the parties and perused the material available on record. After considering the material available on record, I am of the considered view that the Ld.CIT(A) ought to have given the last opportunity to the assessee to represent his case. Therefore, the impugned order is set aside and the appeal is restored to Ld.CIT(A) to decide it afresh after granting reasonable opportunity to the assessee. However, the assessee is hereby directed not to seek adjournment without any reasonable cause. Thus, grounds raised by the assessee in this appeal are 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 23<sup>rd</sup> July, 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