

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

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.735/Del/2020

Assessment Year : 2011-12

Bali Mohammad, House No.1, Dhulwant Ghusbaithi, Tehsil Tauru, Kirnari Bhootlaka, Pipka, Patooka, Mandoal, Gurgaon, Haryana-122105. PAN-ATIPM3389F	vs	ACIT(OSD), Ward-31(2), New Delhi
APPELLANT		RESPONDENT
Appellant by		Sh.Vishal Kalra, Adv.
Respondent by		Sh.Gaurav Pundir, Sr. DR
Date of Hearing		19.07.2021
Date of Pronouncement		23.07.2021

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2011-12 is directed against the order of Ld. CIT(A)-11, New Delhi dated 16.08.2019. The assessee has raised following grounds of appeal:-

- 1. " That on the facts and circumstances of the case and in law, the Commissioner of Income Tax (Appeals) ("CIT(A)") has erred in passing an ex-parte confirming the assessment framed vide assessment order dated December 17, 2018 without appreciating that the relevant notices were not served to the Appellant.*
- 2. That on the facts and circumstances of the case and in law, CIT(A) should have passed a speaking order on merits disposing all grounds of appeal even if the appeal was to be disposed ex-parte for want of prosecution.*

3. *That on the facts and circumstances of the case and in law, the jurisdiction assumed by the assessing officer ("AO") to assess the income under section 147 read with section 148 of the Act is bad in law and void ab-initio and accordingly, the assessment order passed in pursuance to such invalid jurisdiction is liable to be quashed.*
4. *That on the facts and circumstances of the case and in law, AO has erred in initiation of the assessment proceedings under section 147 of the Act solely based upon ITS Data NMS information and assumed escaped of income of the Appellant.*
5. *That on the facts and circumstances of the case and in law, AO has erred in passing assessment order under sections 147/144 of the Act without providing the reasons recorded for initiation of assessment proceedings, which is sine qua non for completing assessment under section 147 of the Act.*
6. *That on the facts and circumstances of the case and in law, AO has erred in completing the assessment under sections 147/144 of the Act without issuing mandatory notice under section 143(2) of the Act.*
7. *That on the facts and circumstances of the case and in law, the AO erred in making addition of Rs.9,59,210/- under section 69A of Act arbitrarily, unwarranted, unlawful, unjustified and bad in law without any iota of any finding by the AO. The CIT(A) further erred in upholding the same ex-parte without being appreciating the records below.*
8. *That the AO erred on facts and in law in levying interest under sections 234A, 234B, 234C and 234D of the Act."*

2. Facts giving rise to the present appeal are that the case of the assessee was re-opened on the ground of certain information regarding purchase made from Haryana Forest Development Corporation Ltd. of

Rs.9,59,209/-. Before the Assessing Officer, there was no representation on behalf of the assessee. Therefore, the Assessing Officer treated the entire amount as unexplained and assessed income at Rs.9,59,209/-.

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 action of the Assessing Officer was found in the appeal and the appeal of the assessee was dismissed ex-parte to the assessee.

4. Now, the assessee preferred present appeal before this Tribunal.

5. Ld. Counsel for the assessee vehemently argued that the assessee was not given sufficient opportunity. He further submitted that the assessee is an illiterate person and notices sent by the Revenue, were not received by the assessee. Therefore, he prayed that in the interest of principles of natural justice, the grounds raised by the assessee be set aside to Ld.CIT(A) for decision on merit.

6. On the contrary, Ld. Sr. DR opposed these submissions and submitted that sufficient opportunity was given to the assessee. He further submitted that the assessee ought to have been vigilant. He cannot sleep after filing the appeal.

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 atleast last opportunity should have been granted to the assessee for representing this case. Therefore, in

the principles of natural justice, I deem it proper to restore the appeal to Ld.CIT(A) to decide afresh. The assessee is hereby directed not to seek adjournment before Ld. CIT(A) except otherwise prevented by extreme exigencies. 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 23rd 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