

IN THE APPELLATE TRIBUNAL INLAND REVENUE,
LAHORE BENCH, LAHORE

ITA No.128/LB/2015
(Tax year 2012)

Mr. Saleem Akhtar, Prop. M/s Golden Bakery, H.No.49-Karim Park, Ravi Road, Lahore. NTN:1045772 Appellant

Versus

CIR, Zone-I, RTO, Lahore. Respondent

Appellant by : Mr. Ayayat Ali Ch., Advocate.
Respondent by : Mr. Rao Shahzad, DR

Date of hearing : 11.05.2015
Date of order : 11.05.2015

ORDER

This appeal has been filed by the taxpayer against the impugned order dated 28.11.2014, recorded by the learned CIR(Appeals-II), Lahore, wherein he confirmed the order of the taxation officer passed u/s 121(1)(d) of the Income Tax Ordinance, 2001.

2. Facts in brief of the case, are that the taxpayer is an individual derives income from running a bakery, filed return declaring income at Rs.500,000/- for the year under consideration, which was deemed to be an assessment u/s 120 of the Income Tax Ordinance, 2001. Later on the case of the taxpayer was selected for audit through computer random ballot and the taxpayer was informed accordingly. Subsequently, the taxation officer issued statutory notices to the taxpayer but the taxpayer failed to comply with the same. Finally the taxation officer culminated the proceedings and amended the



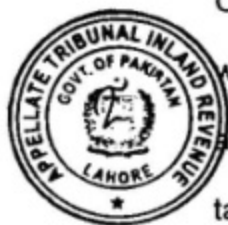
assessment exparte u/s 121(1)(d) of the Income Tax Ordinance, 2001 estimated the income of the taxpayer at Rs.10,570,000/-. Being aggrieved, the taxpayer filed appeal before the learned CIR(A) who by virtue of his appellate order dated supra upheld the action of the taxation officer. This has caused the taxpayer to file appeal before this forum.

3. The learned AR has strongly challenged the orders of the authorities below and has argued that the learned CIR(Appeals) was not justified in confirming the order of the taxation officer which was made exparte and against the norms of natural justice. He has further argued that no notice was served to the taxpayer or his counsel when the case was transferred to other unit, so the taxpayer could not attend the proceedings. On merits, the learned AR has contended that the taxation officer was not justified to estimate sales at Rs.3,00,00,000/- with application of GP rate at 25% against declared sales of Rs.86,00,000/- and declared GP rate of 20% which is excessive and a bald estimation and the learned CIR(A) was wrongly confirmed the same. He has further contended that the taxpayer was filed wealth statement which was not considered the taxation officer and wrongly termed his investment unexplained. In this context, he has contended the taxpayer has a sufficient source of investment which he



can be proved at any stage. On the contrary the learned DR has supported the orders of the authorities below and has contended that the taxpayer's attitude is non-cooperative and he is not bothered to attend the proceedings at the assessment stage. Therefore, he has prayed for maintenance of the orders of the authorities below.

4. We have given due consideration to the rival arguments and also gone through the relevant record available on file. Perusal of the order of the Taxation Officer reveals that before transfer of unit the taxpayer was complied with the notices but after that he failed to attend the audit proceedings which was compelled the taxation officer to amend the assessment u/s 121(1)(d) of the Income Tax Ordinance, 2001. However, it was the duty of the learned CIR(A) to adjudge the matter and consider the evidence of the taxpayer furnished before him or remand the same before the taxation officer which he could not execute. We have also found that the taxpayer's attitude before the taxation officer is not admirable. We have bound to follow the dictum of the higher appellate fora wherein it has been held that no one can be condemned unheard, therefore, we have left with no other alternate except to vacate the orders of both the authorities below and remand the case to the



Taxation Officer for denovo proceedings after fulfilling all the legal requirements of law. He is also directed to provide an adequate opportunity of being heard to the taxpayer and the taxpayer is advised to follow the proceedings and furnish all the documents which he would like to rely.



5. The appeal of the taxpayer is disposed of as above.

Sd/
(TAUQEER AKBAR)
Accountant Member
June-A. 15/13-16

Sd/
(MUHAMMAD WASEEM CH.)
Judicial Member