

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : SMC : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

ITA No.2459/Del/2017
Assessment Year : 2013-14

Jai Shree,
C/o M.S. Sharma, Advocate,
71, New Mohanpuri, Main Road,
Near Amba Paints,
Meerut City,
Uttar Pradesh.

Vs. ITO,
Ward-1(3),
Meerut.

PAN: ARYPS5691J

(Appellant)

(Respondent)

Assessee By : Shri V.K. Goel, Advocate
Department By : Shri T. Vasanthan, Sr. DR

Date of Hearing : 17.10.2017
Date of Pronouncement : 18.10.2017

ORDER

This appeal by the assessee is directed against the order passed by the CIT(A) on 20.02.2017 in relation to the assessment year 2013-14.

2. The first issue raised in this appeal is against the initiation of re-assessment proceedings based on the alleged late approval of the JCIT. The Id. AR contended that the Assessing Officer issued notice dated 30.03.2016 u/s 148, but, approval from JCIT was received after such date. It was, therefore, contended that the initiation of reassessment be set aside.

3. Having regard to the facts of the instant case, it is seen from pages 13 and 14 of the paper book that the Assessing Officer moved proposal dated 28.03.2016 for initiation of reassessment on account of AIR information received about cash deposit of Rs.10 lac in the saving bank account. Such proposal was put up before the JCIT who accorded his sanction on 30.03.2016. The Assessing Officer issued notice dated 30.03.2016, whose copy is available on page 13 of the paper book. The Id. AR's reliance on the letter dated 31.03.2016 issued by JCIT, Meerut conveying the approval to the Assessing Officer, as a reason to invalidate the initiation of reassessment proceedings, is not correct. It is a formal communication of the approval already given and conveyed to

the AO, which is apparent from page 12 of the paper book, which is a copy of the order sheet of the Assessing Officer placed on record by the ld. AR. This also states that on 28.03.2016, proposal seeking approval u/s 148 was sent to the JCIT and on 30.03.2016: “approval to issue notice u/s 148 received from the office of the Joint CIT, Meerut. Notice u/s 148 issued.” Since the approval was actually accorded on 30.03.2006, the Assessing Officer swung into action by issuing the notice on the same date. Under these circumstances, I am of the considered opinion that no exception can be taken to the initiation of reassessment proceedings. This ground is not allowed.

4. Other grounds are on the merits of additions made. It is seen that the assessment order has been passed u/s 144 of the Act, impliedly without the active participation by the assessee. In my considered opinion, the ends of justice would meet adequately if the impugned order on merits is set aside and the matter is restored to the file of the Assessing Officer. I order accordingly and direct the Assessing Officer to give an adequate opportunity of hearing to the assessee in respect of

the additions made in the assessment order and sustained in the first appeal.

5. In the result, the appeal is partly allowed.

The order pronounced in the open court on 18.10.2017.

Sd/-

[R.S. SYAL]
VICE PRESIDENT

Dated, 18th October, 2017.

dk

Copy forwarded to:

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

AR, ITAT, NEW DELHI.