

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Delhi Bench "SMC", New Delhi**

**BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER**

I.T.A. No. 3370/Del/2017

A.Y.: 2007-08

Naresh Kumar H. No. 100, Bangla No. B-210, R.R. Palace, Bombay Bazar, Meerut  <b>PAN:AETPK4571</b>	Vs.	ITO Ward-2(1) Meerut
[Appellant]		[Respondent]

Appellant by:	Sh. Rajan Chopra, C.A.
Respondent by:	Sh. Amrit Lal, Sr. DR

Date of Hearing:	09	11	2017
Date of Pronouncement:	28	11	2017

**ORDER**

**N.K. SAINI, A.M:**

This is an appeal by the assessee against the order dated 22.03.2017 of the learned CIT(A), Meerut. Following grounds have been raised in this appeal:-

- "1. That the order of learned CIT(A) sustaining the order of the learned Assessing Officer is bad in law and on facts and is liable to be set aside.*
- 2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. Assessing Officer in making addition of Rs. 18,79,000/- on account of Long Term Capital Gain on sale of properties, though appellant was not the owner of any of the properties under consideration.*
- 3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in not admitting additional evidences filed by the appellant under Rule 46A which were germane to deciding the issues.*

*4. That orders passed by learned CIT(A) and learned Assessing Officer are against the principles of natural justice.*

*5. That the appellant craves the leave to add, amend modify, delete any of the grounds of appeal before or at the time of hearing and all the above grounds are without prejudice to each other.*

2. Vide ground no. 3, the grievance of the assessee relates to the non admission of the additional evidences filed under Rule 46A of the Act.

3. Facts of the case, in brief, are that the AO on the basis of the CBI information received, initiated the proceedings u/s 147 of the Income Tax, 1961 (hereinafter referred to "Act") and issued the notice u/s 148 of the Act which remained non complied. The AO framed the assessment u/s 144 of the Act at an income of Rs. 18,79,000/-. Being aggrieved the assessee carried the matter to the learned CIT(A) and furnished the additional evidences, however, the learned CIT(A) did not admit the additional evidences and sustained the addition made by the AO.

4. Now the assessee is in appeal.

5. I have considered the submission of both the parties and perused the material available on the record. In the present case, it is noticed that the learned CIT(A) while rejecting the application of the assessee for admission of the additional evidence did not rebut the contention of the assessee that he was prevented by sufficient cause being victim of Victoria Park Fire. The learned CIT(A) simply stated that no evidence of illness in the form of medical bills, tests, etc., was brought on record. However, he did not say that the contention of the assessee was false. In my opinion, the learned CIT(A) ought to have admitted the additional evidences and then decide the case on merit after providing due and reasonable opportunity of being heard to the assessee. Accordingly the impugned order is set aside and the matter is remanded back

to the file of the learned CIT(A) to be adjudicated afresh in accordance with law after admitting the additional evidences furnished by the assessee before him.

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

(Pronounced in the open court on 28.11.2017.)

**Sd/-**  
**[N.K. SAINI]**  
**Accountant Member**

DATED: 28.11.2017

SH

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Assistant Registrar