

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

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
&  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.- 557/Del/2018,  
(Assessment Year: 2011-12)**

Sh. Ajay Kumar Goyal 1605, Near Shakti Diary, Shiv Puri, Railway Road, Hapur.	Vs.	Income-tax Officer Ward-3(4), Hapur.
<b>PAN No:</b> ARMPG1013G		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Sh. Sanjay Malik (Adv .)  
**Revenue by** : Sh. B.R. Mishra (Sr. DR)

**Date of Hearing** : 14.06.2018.  
**Date of Pronouncement** : 22/06/2018.

**ORDER**

**PER: O.P. KANT, AM**

This appeal by the Assessee is directed against order dated 19/09/2017 passed by the Ld. Commissioner of Income-tax (Appeals), Aligarh [in short the Ld. CIT(A)] for Assessment Year 2011-12 raising following grounds:

- "1. *That on facts and in law initiation of proceedings u/s 147 of I.T. Act followed by the notice u/s 148 of I.T. Act were void, illegal and without jurisdiction.*
2. *That the Assessing Officer has not recorded proper satisfaction thus proceedings u/s 148 should be annulled.*
3. *That on facts and in law the consequent assessment framed deserve to be quashed and annulled being void, illegal and without jurisdiction. Natural justice was violated.*
4. *That on facts and in law there was no warrant to make an addition of Rs. 12,00,000/-. Consequently the impugned addition of Rs. 12,00,000/- deserves to be deleted being void, illegal and without jurisdiction.*
5. *That there was no legal warrant to levy of interest u/s 234A, 23B, 234C of I.T. Act. Levy of interest under these provisions deserves to be deleted being void, illegal and without jurisdiction.*

2. Briefly stated facts of the case are that on the basis of the information received by the Department, that the assessee had entered into contract of Rs. 10 Lacs or more in commodity exchange and had not filed the return of income, the Assessing Officer initiated proceedings under section 147 of the Income Tax Act, 1961 (in short the 'Act') by way of issue notice under section 148 of the Act on 05/02/2014. The assessee filed return of income on 23/06/2014 showing net income of Rs. 7,80,020/-. In the assessment completed under section 147/143(3) of the Act on 19/02/2015, the Assessing Officer made following additions:

1. *The unexplained advances from 4 parties aggregating to Rs. 14,20,000/-.*
2. *Disallowance of certain expenses of Rs. 26,513/-*
3. *Insufficient household expenditure Rs. 1,20,000/-.*

3. The Ld. CIT(A) deleted the disallowance of expenses of Rs. 26,513/-and insufficient household expenditure of Rs. 1,20,000/- however he sustained the addition of Rs. 14,20,000/-as advances remain unexplained.

4. In the grounds raised the assessee challenged the jurisdiction assumed by the Assessing Officer in reopening the assessment.

5. Before us the Ld. Counsel of the assessee filed a Paper Book containing pages 1 to 66 and submitted that no addition has been made on the issue, on which the assessment was reopened. He has drawn our attention to the copy of reasons recorded available on page 3 of the Paper Book. In support of his contention, he relied on the decision of the Hon'ble Delhi High Court in the case of **Ranbaxy laboratories Ltd. vs. CIT reported in 334 ITR 341 [2011]**, Wherein it is held that if the addition based on the reasons recorded does not survive, the proceedings under section 147 cannot withstand.

6. On the contrary, the Ld. DR relied on the order of the lower authorities.

7. We have heard the rival submissions and perused the relevant material on record. In the case of Ranbaxy laboratories Ltd (supra), the Hon'ble High Court concluded that the Assessing Officer had the jurisdiction to reassess issues other than the issues in respect of which proceedings are initiated but he was not so justified when the reasons for the initiation of those proceedings ceased to survive. In the instant case also no addition on the issue of investment in commodity exchange has been made by the Assessing Officer and only addition which survived after the impugned order of the

Ld. CIT(A) is unexplained advances of Rs. 14, 20,000/-. Thus respectfully following above decision of the Hon'ble Delhi High Court, the above addition made by the Ld. Assessing Officer and the sustained by the Ld. CIT(A), is not justified. Accordingly, we direct to delete the same. The grounds of the appeal of the assessee accordingly allowed.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 22/6/2018.

Sd/-

**KULDIP SINGH**  
**(JUDICIAL MEMBER)**

Sd/-

**O.P.KANT**  
**(ACCOUNTANT MEMBER)**

Dated: 22.06.2018  
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

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Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
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Date on which the file goes to the Head Clerk	
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