

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : SMC : NEW DELHI  
BEFORE SHRI R.S. SYAL, VICE PRESIDENT

ITA No.7748/Del/2017  
Assessment Year : 2009-10

Sheesh Pal Singh,  
A-70, Govindpuram,  
Ghaziabad,  
Uttar Pradesh – 201002.

Vs. ITO,  
Ward-2(3),  
Ghaziabad.

PAN: ALUPA5060P

(Appellant)

(Respondent)

Assessee By : Shri Anoop Sharma, Advocate &  
Shri Sanjay Prashar, Advocate  
Department By : Shri Atiq Ahmed, Sr. DR

Date of Hearing : 24.07.2018  
Date of Pronouncement : 25.07.2018

ORDER

This appeal filed by the assessee arises out of the order passed by the CIT(A) on 29.09.2017 in relation to the assessment year 2009-10.

2. The assessee, in the Memorandum of Appeal, is aggrieved against the addition of Rs.12,57,000/- sustained by the Id.CIT(A). The assessee has raised the following additional grounds:-

“1. That the Ld. Commissioner of Income Tax (Appeals) erred in law, on facts and in the surrounding circumstances of the case in failing to examine, on her own, the validity of re-assessment proceedings in as much as the mere fact that cash deposits have been made in the bank account does not by itself, indicate that these deposits constitute an income, which has escaped assessment as per the settled law.

2. That since the Ld. A.O. was having no relevant tangible material worth the name, with him at the time of formation of belief except vague AIR information and non compliance of so called plenty opportunities the impugned so entertained by him being pre-supposed and speculative in nature, not only loses the legal sanctity but also eclipses the jurisdiction of Ld. A.O. to proceed u/s 147 of I.T. Act.”

3. I have heard both the sides and perused the relevant material on record. Since the additional grounds relate to a legal issue, I, therefore, admit such ground. It is an admitted position that not only the assessee forgot to raise such grounds in Memorandum of Appeal, but, such grounds were not even taken before the authorities below. As such, there is no adjudication on such grounds by the authorities below. Under these circumstances, I am constrained to remit this matter to the file of the ld. first appellate authority for adjudicating such ground, challenging the initiation of re-assessment proceedings, as per law, after allowing a reasonable opportunity of being heard to the assessee.

4. In the result, the appeal is allowed for statistical purposes.

The decision was pronounced in the open court on 25<sup>th</sup> July, 2018.

Sd/-

[R.S. SYAL]  
VICE PRESIDENT

Dated, 25<sup>th</sup> July, 2018.

dk

Copy forwarded to:

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

AR, ITAT, NEW DELHI.