

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER**

**I.T.A .No.-4476/Del/2018  
(ASSESSMENT YEAR-2010-11)**

Sanjay Dewan, Noida C/o Sh. Vinod Kr. Goel, Adv., 282, Boundary Road, Civil Lines, Meerut, Uttar Pradesh. <b>PAN No. AALPD8399Q</b> <b>(APPELLANT)</b>	vs	ITO, Ward 2(3), Meerut.  <b>(RESPONDENT)</b>
<b>Appellant by</b>	<b>Shri V.K. Goel, Advocate</b>	
<b>Respondent by</b>	<b>Shri S.L. Anuragi, Sr. DR</b>	

<b>Date of Hearing</b>	<b>19/11/2018</b>
<b>Date of Pronouncement</b>	<b>19/11/2018</b>

**ORDER**

This appeal filed by the Assessee is directed against the Order dated 24.05.2018 of the Ld. CIT(A), Meerut relevant to assessment year 2010-11 on the following grounds: -

1. *“That the addition of Rs. 8,46,600/- was made without considering the fact that payment of Mutual Fund was made out of bank withdrawals and these transactions were cleared through saving bank account. Because no cash payment can be made through credit card and the AO has not made any inquiry in this regard. The bank account was clearly mentioned in the computation of income, hence, no addition can be made without considering the bank account.*
2. *That the copy of bank account cannot be termed as new evidence, when the bank account was disclosed by the assessee in his income tax return. Hence, CIT(A) is in*

*error not considering the bank account during the appeal proceeding as it was not a new evidence.*

*3. That the assessee has right to add, modify or delete any ground during the appeal proceedings.”*

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. During the hearing, Ld. counsel for the assessee, has stated that AO has made the addition without considering the fact that payment of Mutual Fund was made out of bank withdrawals and these transactions were cleared through saving bank account and also submitted that no cash payment can be made through credit card and the AO has not made any inquiry in this regard. The bank account was clearly mentioned in the computation of income, hence, no addition can be made without considering the bank account. The copy of bank account cannot be termed as new evidence, when the bank account was disclosed by the assessee in his income tax return. It was further submitted that Ld. CIT(A) is erred in not considering the bank account during the appeal proceeding as it was not a new evidence. He further submitted that now the assessee has all the evidences/ documents in his possession to substantiate its case, if the Bench has set aside the issue in

dispute to the file of the AO to decide the same afresh, under the law, after giving adequate opportunity of being heard.

4. Ld. DR did not raise any objection to the request of the assessee's counsel.

5. I have heard both the parties and perused the records. I find force in the arguments of the assessee's counsel that AO has made the addition without considering the fact that payment of Mutual Fund was made out of bank withdrawals and these transactions were cleared through saving bank account, however, no cash payment can be made through credit card and the AO has not made any inquiry in this regard. It is also noted that the bank account was clearly mentioned in the computation of income, hence, no addition can be made without considering the bank account. The copy of bank account cannot be termed as new evidence, when the bank account was disclosed by the assessee in his income tax return, which was not considered by the Ld. CIT(A). Therefore, in the interest of justice, the same should be considered at the level of the AO afresh alongwith all other evidences/ documents in the possession of the assessee. In the interest of justice, the issues in dispute are set aside to the file of the AO for hearing on 31.12.2018 at 10.000 AM with the directions to decide the same afresh under the law and consider the bank statement and other

documents, after giving adequate opportunity of being heard to the assessee. The assessee through his counsel is also directed to appear before the Assessing Officer on 31.12.2018 at 10.00 AM and file all the necessary documents/evidences, if any, to substantiate his case and fully cooperate with the AO in the proceedings and did not take any unnecessary adjournment. Since the order has been pronounced, there is no need to send the notice to the assessee for hearing.

6. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 19.11.2018.

**Sd/-**  
**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

Dated: 19/11/2018

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

