

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'B' : NEW DELHI)**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
and
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.3675/Del./2015
(ASSESSMENT YEAR : 2011-12)**

ITO, Ward 37 (1), vs. Shri Hari Prakash Sharawat,
New Delhi. 589, Mohalla Begwan, Bawana,
Delhi – 110 039.

(PAN : BIPPS0453P)

(APPLICANT)

(RESPONDENT)

ASSESSEE BY : Shri Jayant Bothra, CA
REVENUE BY : Ms. Ashima Beg, Senior DR

Date of Hearing : 11.12.2018
Date of Order : 21 .12.2018

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The appellant, Income-tax Officer, Ward 37 (1), New Delhi (hereinafter referred to as 'the Revenue') by filing the present appeal, sought to set aside the impugned order dated 23.03.2015 passed by Ld. CIT (Appeals)-13, New Delhi qua the Assessment Year 2011-12 on the grounds inter alia that :-

“On the facts and the circumstances of the case, the Ld. CIT (A) erred in deleting the addition of Rs.53,48,590/- and Rs.7,18,804/- on account of income from undisclosed source u/s 69A of the IT Act, 1961 as the assessee failed to explain source of income.”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : During scrutiny proceedings, Assessing Officer noticed that in the Statement of Affairs (SOA) as on 31.03.2011, assessee has shown agricultural income at Rs.3,25,000/- but has failed to bring on record any evidence and as such, agricultural income shown in the statement of affairs by the assessee is treated as income from other sources.

3. AO from the comparison of capital account of the assessee as shown in statement of affairs as on 31.03.2011 and 31.03.2010 as Rs.55,98,590/- and Rs.2,50,000/- respectively, showing net increase in the capital over the last year amounting to Rs.53,48,590/-. AO tabulated the statement of affairs as under :-

“Statement of Affairs as on 31st March 2011

<i>Particulars</i>	<i>Amount</i>	<i>Particulars</i>	<i>Amount</i>
<i>Agricultural Income</i>	<i>3,25,000</i>	<i>Loans and advances</i>	<i>33,39,000</i>
<i>Interest on saving Bank A/c</i>	<i>26,079</i>	<i>Investrade Securities India (P) Ltd.</i>	<i>13,00,000</i>
<i>Capital A/c</i>	<i>55,98,590</i>	<i>Jewellery and Ornaments</i>	<i>5,00,000</i>
<i>Less Household Exp.</i>	<i>-3,58,519</i>	<i>Canara Bank</i>	<i>2,52,983</i>
<i>Canara Bank Car Loan</i>	<i>5,20,000</i>	<i>Cash in Hand</i>	<i>1,25,295</i>
		<i>Motor Car</i>	<i>5,93,872</i>
<i>Total</i>	<i>61,11,150</i>	<i>Total</i>	<i>61,11,150</i>

“Statement of Affairs as on 31st March 2010

<i>Particulars</i>	<i>Amount</i>	<i>Particulars</i>	<i>Amount</i>
<i>Agricultural Land Sale</i>	<i>51,91,666</i>	<i>Loans and advances</i>	<i>45,39,000</i>
<i>Agricultural Income</i>	<i>3,0,000</i>	<i>Jewellery and Ornaments</i>	<i>3,00,000</i>
<i>Interest on saving Bank A/c</i>	<i>31,924</i>	<i>Canara Bank</i>	<i>5,87,395</i>
<i>Capital B/f</i>	<i>2,50,000</i>	<i>Cash in Hand</i>	<i>1,72,195</i>
<i>Less Household Exp.</i>	<i>-1,75,000</i>		
<i>Total</i>	<i>55,98,590</i>	<i>Total</i>	<i>55,98,590</i>

4. On failure of the assessee to bring on record any evidence, amount of Rs.53,48,590/- is treated as assessee's income from undisclosed sources by the AO and thereby assessed the total income at Rs.64,18,474/-.

5. Assessee carried the matter by way of an appeal before the Id. CIT (A) who has partly allowed the appeal. Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

6. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

7. The Id. CIT (A) in para 5.3 of the impugned order has recorded that the assessee has received an amount of Rs.51,91,666/- from the sale of agricultural land and the same was added to the capital brought forward of Rs.2,50,000/- and as such, there is no unexplained increase in the capital. However, we are of the considered view that neither the assessee has pleaded the sale deeds in his reply vide which he has received sale proceeds of Rs.51,91,666/- nor the CIT (A) has discussed in the impugned order any such sale deeds to arrive at the conclusion that there is no unexplained increase in the capital of the assessee. So, we are of

the considered view that this issue is required to be set aside to the Id. CIT (A) to decide afresh by bringing on record, if any such sale deeds are there vide which assessee alleged to have received the sale proceeds of Rs.51,91,666/-, by providing an opportunity of being heard to the assessee.

8. Similarly, the Id. CIT (A), while deleting the amount of Rs.7,18,804/- on account of loss suffered by the assessee in his investment of Rs.13,00,000/- with Invest Trade Securities India P. Ltd., has not called any remand report from the AO to verify the facts and books of account, nor it is mentioned by Id. CIT (A) in the books of account that he himself has perused the books of account maintained by the assessee. So, this issue is also required to be set aside to Id. CIT (A) to decide afresh after providing an opportunity of being heard to the assessee.

9. Resultantly, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in open court on this 21st day of December, 2018.

**Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 21st day of December, 2018
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-13, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.