

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

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

**I.T.A .No.-3169/Del/2018
(ASSESSMENT YEAR-2010-11)**

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| NAZAKAT ALI, HOUSE NO. 52, VILL RASULPUR, AURANGABAD, MEERUT UTTAR PRADESH PAN: CINPA1433J (APPELLANT) | vs | ACIT, OSD, WARD 1(2)(1), MEERUT (RESPONDENT) |
| Appellant by | Shri Wahaj Ahmed Khan, Advocate | |
| Respondent by | Shri S.L. Anuragi, Sr. DR | |

ORDER

This appeal filed by the Assessee is directed against the Order dated 16.02.2018 of the Ld. CIT(A), Meerut relevant to assessment year 2010-11 on the following grounds: -

1. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that the orders of Id A.O. are highly arbitrary, illegal & against the facts of the case.*
2. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that Id assistant Commissioner Of Income Tax Meerut has decided the case exparte without service of required notice to served to the assessee and is liable to be quashed on this ground alone.*
3. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that the matter was time barred for want of service of notice u/s 143(2) within the prescribed time.*
4. *That Id Commissioner Of Income Tax (Appeals) Meerut has not appreciated that Ld Assistant Commissioner Of Income*

Tax Meerut has grossly erred in making an addition of Rs25,10,000/- which was out of the sales proceeds of agriculture land and standing crops of the father of the assessee.

5. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that the assessee is an agriculturist and his family background is also agriculturist.*
6. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that father of the assessee has sold his ancestral agriculture land and sale proceeds were deposited in the account of the assessee.*
7. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that money received from the sale of agriculture land was the share of 6 brothers of the appellant which was divided later on after withdrawing the same.*
8. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that the appellant and his family members being uneducated and keeping such a huge amount in the house was unsafe, therefore the entire cash receipt was deposited in the account of the appellant.*
9. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that there is no police case upon the appellant and assessee, he was not absconded.*
10. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that Id assistant Commissioner Of Income Tax Meerut has wrongly passed exparte orders, claiming that notice could not be served upon the appellant as he was absconded from the house.*
11. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that Id none of the other :>des of service like pasting of notice upon last known residential address etc were not applied by Id. AO.*

12. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that Id assistant Commissioner Of Income Tax Meerut Id income tax officer was not justified that the assessment was made upon wrong PAN.*
13. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that Id assistant Commissioner Of Income Tax Meerut Id income tax officer was not justified in making an addition of Rs 25,10,000.00 which was sale proceeds of agriculture land.*
14. *That Ld Commissioner Of Income Tax (Appeals) Meerut has not appreciated that Ld Assistant Commissioner Of Income Tax Meerut has make the addition without any basis and without looking into the facts and circumstances of the case.*
15. *That all the additions made by the A.O. are bad in law, illegal and against the principal of natural justice.*
16. *That appellant craves leave to add, alter, omit to /from the grounds of appeal at the time of hearing.*

Prayer : -

In view of the above mentioned facts and circumstances of the case, it is most respectfully prayed that please quashed the orders of Id income tax officer. Or alternatively the addition of rs 25,10,000/- be deleted or may pass such orders as your good self consider fit and proper in the interest of natural justice.

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, assessee, has stated that AO has passed the exparte order u/s. 144/147 of the Income Tax Act, 1961 (in Short "Act") and similarly, the Ld. CIT(A) has also upheld the action of the AO, without giving sufficient opportunity to the assessee and without considering the submissions of the assessee. He requested that the matter may be set aside 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.

5. I have heard both the parties and perused the records. I have also gone through the order passed by the revenue authorities as well as the contention raised by the assessee in the grounds of appeal. I find force in the arguments of the assessee that AO has completed the assessment vide exparte order dated 08.12.2017 u/s. 147/144 of the Income Tax Act and similarly, Ld. CIT(A) also upheld the action of the AO. Therefore, in the interest of justice, I am setting aside the issues in dispute to the file of the AO with the directions to decide the same afresh under the law, after giving adequate opportunity of being heard to the assessee. The assessee is also directed to 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.

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

Order pronounced on 01.01.2019.

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

Dated: 01/01/2019

SRBHATNAGAR

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

