

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER**

ITA No. 6512/Del/2018  
Assessment Year: 2010-11

ILIYAS  
C/O VIVEK AGGARWAL, ADV.  
1324, MAIN ROAD,  
SECTOR-28, FARIDABAD  
HARYANA - 121008  
(PAN: ABEPI5668K)  
**(APPELLANT)**

VS. ITO, WARD 1(3),  
GHAZIABAD  
ROOM NO. 206, 2<sup>ND</sup> FLOOR,  
ITO, CGO COMPLEX-1  
HAPUR CHUNGI, GHAZIABAD  
**(RESPONDENT)**

Assessee by : SH. VIVEK AGGARWAL, ADV.  
Department by : SH. S.L. ANURAGI, SR. DR.

**ORDER**

This appeal has been filed by the Assessee against the order dated 31.7.2018 of the Ld. CIT(A), Ghaziabad relating to assessment year 2010-11 on the following grounds:-

1. That the AO has erred in assuming jurisdiction u/s. 147/148.
2. That the ITO has erred in not applying provisions of section 44AF of the Income Tax Act, 1961.
3. That the ITO has erred in making addition on presumption and assumption basis without any corroborative evidence.

4. That the AO/CIT(A) has erred in not serving the notice to the appellant.
5. That the AO has erred in passing non-speaking biased and vague orders giving no breakup of demand.
6. That the AO has erred in making addition without considering the ITR filed by the assessee as the same was filed with PAN ABEP15668K and in same Ward 1(3), Ghaziabad.
7. That the AO has erred in invoking provisions of section 69.

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 convenience.

3. Ld. Counsel of the assessee stated that the Ld. CIT(A) has passed the order against the principles of natural justice by way of ex parte order in not providing sufficient opportunities to the assessee and not decided the appeal on merits. Hence, he requested that the issues in dispute may be set aside to the file of the Ld. CIT(A) to decide the same afresh on merits and pass a speaking order thereon.

4. On the other hand, Ld. DR relied upon the orders of the authorities below.

5. I have heard both the parties and perused the records. It was the contention of the assessee's counsel that Ld. CIT(A) has passed the ex-parte non-speaking order and dismissed the appeal by not providing sufficient opportunities to the assessee, which is

against the principle of natural justice. I further find that Ld. CIT(A), has only upheld the order of the AO and passed the exparte order, which is not sustainable in the eyes of law. Therefore, in the interest of justice, I set aside the issues in dispute to the file of the Ld. CIT(A) to decide the issues in dispute afresh, in accordance with law, after giving adequate opportunity of being heard to the parties and pass a speaking order. However, the Assessee through his Counsel is directed to cooperate with the Ld. CIT(A) in the proceedings and appear before him on **25.02.2019 at 10.00 AM** and produce all the documents before him to substantiate its claim and not to take any unnecessary adjournment. Since I have fixed the date of hearing before the Ld. CIT(A), as aforesaid, hence, there is no need to issue the separate notice for hearing to the assessee.

6. In the result, the Appeal filed by the Assessee stands allowed for statistical purpose.

Order pronounced on 22/01/2019.

**Sd/-**  
**[H.S. SIDHU]**  
**JUDICIAL MEMBER**

Dated:22/01/2019

**\*SR BHATNAGAR\***

Copy forwarded to: -

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

By Order,

**ASSISTANT REGISTRAR**