

**IN THE INCOME TAX APPELLATE TRIBUNAL
(MEERUT CAMP, MEERUT)**

**BEFORE SHRI N.S.SAINI, ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.1954/Del./2017
(ASSESSMENT YEAR : 2008-09)**

Smt. Savita Devi Mahavidyalay
Run by Shatabdi Shiksha Prasar Sabha
B-109 Shastri Nagar,
Meerut
Uttar Pradesh
(PAN : AADAS8139A)
Appellant

Vs. ITO,
Ward-2(3)
Meerut,
U.P.

Respondent

ASSESSEE BY : Sh. Dinesh Mohan Sinha, Sh. Rajeev Kumar
Sharma, Adv.

REVENUE BY : Shri M.R.Bihagra, Sr.DR

Date of Hearing : 11.01.2019

Date of Order : 25.01.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The appellant Smt. Savita Devi Mahavidyalay, Meerut (hereinafter referred to as 'the assessee') by filing the aforesaid appeal, sought to set aside the impugned order dated 21/02/2017 passed by Ld. Commissioner of Income Tax(Appeals)-Meerut qua the Assessment Year 2008-09 on the grounds inter alia that :

1. *“circumstances of the case and in law, the Ld. CIT (A) Meerut, UP, has accepted the initial grounds of appeal but rejected the grounds of appeal filed thereafter, wherein the Counsel of the appellant/assessee challenged re-opening of the case U/s 148 of the Act.*

2. *On the facts and in the circumstances of the case and in law, the Ld. CIT (A Meerut, U.P., erred in confirming the addition on account of alleged deposit cash of Rs. 52,70,000/- in the Bank Account by the assessee.*
3. *On the facts and in the circumstance of the case and in law, that while sustaining the above said additions the Ld. CIT (A) Meerut, U.P. ought to have appreciated that there was no valid material or basis for having made the said additions which is bad in law and against the principal of natural justice.*
4. *On the facts and in the circumstance of the case and in law, that since the proceedings is that of a society and not as an individual there is no question in furnishing the info/application under rule 46A , because the very first order passed by the AO, Ward 2 (3) Meerut is bad in law because of the fact that the assessee is a society and not an individual. That the Ld. A.O. erred in law and fact in making an addition of Rs. 52,70,000/- as income from undisclosed sources, just on imagination & without having any detail / source whatsoever.*
5. *on the facts and in the circumstance of the case and in law, that the Ld. CIT (A) Meerut has erred in law while justifying the treatment of undisclosed income by not even mentioning in the order that the assessee is not an Individual as has been treated by the Assessing Officer, Ward 2 (3) Meerut, and did not even listen and take into accounts the averments made by the Counsel of the appellant/assessee.*

6. *The appellant craves leave to add, delete, modify or alter the pleas and grounds as taken.”*

2. Briefly stated that facts necessary for adjudication of the controversy at hand are : Assessee being a society registered under the Society Registration Act is running educational institution namely SAVITA DEVI MAHAVIDYALAYA affiliated with C.C.S University Meerut U.P. The Assessing Officer completed the assessment u/s 147/144 of the Act on failure of the assessee to furnish necessary documents called for vide notice issued u/s 142(1) by making addition of Rs. 52,70,000/- on account of the unexplained cash deposit in the Saving Bank Account u/s 68 of the Act.

3. Assessee carried the matter before Ld. CIT(A) by way of filing the appeal who has dismissed the same. Feeling aggrieved the assessee has come up before the Tribunal by way of filing the present appeal.

4. 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.

5. Undisputedly, the assessment was completed in this case u/s 144/147 of the Act by the Assessing Officer who claims to have issued notices to the assessee on different dates and on its failure to put an appearance proceeded to complete the assessment u/s 144/147 of the Act. It is also not in dispute that during the appellate proceedings assessee without moving an application under rule 46A of the Income Tax Rules sought to bring on record certain documents to explain the cash deposit in the Saving Account which the Ld. CIT(A) has declined.

6. In the backdrop of the aforesaid undisputed facts and circumstances of the case assessee in order to explain the cash deposit in its bank

account, stated that the entire amount received by the assessee is on account of fees received from students and the interest accrued on the said amount which was also subjected to TDS as per TDS Certificate enclosed. In the given circumstances, we are of the considered view that on account of negligence or inefficiency of the Ld. AR for the assessee in not moving application U/R 46A, assessee should not be made to suffer. So, in order to decide the issue in controversy once for all, we are of the considered view that the assessee must be provided with adequate opportunity of being heard by bringing on record the supporting documents, hence, the case is required to be remanded back to the AO to decide afresh by providing an opportunity of being heard to the assessee. We, order accordingly. Consequently, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in open court on this 25th January, 2019.

**Sd/-
(N.S.SAINI)
ACCOUNTANT MEMBER**

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

**Dated: 25/01/ 2019
BR**

Copy forwarded to:

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

**AR, ITAT
NEW DELHI.**

Date of dictation	15.01.2019
Date on which the typed draft is placed before the dictating Member	16.01.2019
Date on which the typed draft is placed before the Other Member	16.01.2019
Date on which the approved draft comes to the Sr. PS/PS	25.01.2019
Date on which the fair order is placed before the Dictating Member for pronouncement	25.01.2019
Date on which the fair order comes back to the Sr. PS/PS	25.01.2019
Date on which the final order is uploaded on the website of ITAT	25.01.2019
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	