

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

ITA No. 5299/Del/2018
Assessment Year: 2013-14

JASBIR KAUR,
G-7, BOCK-WZ, RATTAN PARK,
BASAI DARAPUR,
NEW DELHI – 110 015
(PAN: APJPK1760P)
(APPELLANT)

VS. ITO, WARD 45(1),
NEW DELHI

(RESPONDENT)

Assessee by : Sh. Dhruv Malhotra, CA

Revenue by : Sh. SL Anuragi, Sr. DR.

ORDER

The Assessee has filed the Appeal against the Order dated 26.4.2018 of the Ld. CIT(A)-15, New Delhi pertaining to assessment year 2013-14 on the following grounds:-

1 That the CIT(A) erred on facts and in law in confirming the order of the assessing officer in making an addition of Rs.3,00,000 on account of unexplained expenditure qua purchase of Volkswagen Jetta car under the provisions of section 69C of the Income-tax Act, 1961 ('the Act').

1.1. That the CIT(A) erred on facts and in law in confirming the order of the assessing officer in making the aforesaid addition without appreciating that the source of above mentioned expenditure of Rs.3,00,000/- viz., confirmation of sale of an old car by assessee to Mr.

Satish Kumar, was duly submitted during the appellate proceedings.

1.2. That the CIT(A) erred on facts and in law in confirming the order of the assessing officer in making the aforesaid addition without appreciating and admitting the additional evidences submitted by assessee during the appellate proceedings under Rule 46A of the Rules, for explaining the source of above mentioned expenditure of Rs.3,00,000.

1.3. That the CIT(A) erred on facts and in law in confirming the order of the assessing officer in making the aforesaid addition without appreciating that, the above mentioned expenditure of Rs.3,00,000 does not remain to be un-explained qua source thereof warranting addition of the same under the provisions of section 69C of the Act.

1.4 That the CIT(A) erred on facts and in law in confirming the order of the assessing officer in making the aforesaid addition without appreciating that additional evidences submitted by assessee during the appellate proceedings were not accepted by assessing officer during assessment proceedings.

1.5 That the CIT(A) erred on facts and in law in confirming the order of the assessing officer in making the aforesaid addition without appreciating that no cogent reasons were provided by the assessing officer for making the said addition.

1.6 That the CIT(A) erred on facts and in law in confirming the order of the assessing officer in making the aforesaid addition without appreciating that the basis of making the said addition by the assessing officer was flimsy and baseless.

The appellant craves leave to add, alter, amend or vary from the aforesaid grounds of appeal at or before the time of hearing.

2. The 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. At the time of hearing, Ld. Counsel for the assessee stated that it is a case where the Ld. CIT(A) has not admitted the crucial evidences i.e. confirmation of sale of an old car by assessee to Mr. Satish Kumar, in accordance with Rule 46A and omitting to adjudicate on the contention and claim of the assessee which were filed during the appellate proceedings, which are very essential in considering the issues in dispute and therefore, he requested that the same may be admitted and issues in dispute may be set aside to the AO for fresh adjudication, after giving adequate opportunity of being heard to the assessee.

4. On the contrary, Ld. DR relied upon the order of the authorities below and stated that Ld. CIT(A) has rightly rejected the additional evidences filed by the Assessee u/r 46A.

5. I have heard both the parties and perused the records especially the orders of the revenue authorities, copy of additional document filed u/r 46A of the Income Tax Rules, After careful consideration of the documents, I find considerable cogency in the submissions of the Ld. counsel for the assessee that Ld. CIT(A) was not justified in rejecting the additional evidence filed u/R 46A. I

further note that now the assessee has furnished the copies of those documents which were furnished by the assessee during the course of appellate proceedings in the shape of application u/r 46A, which are very much relevant and essential in adjudicating the issues in dispute. Hence, in the interest of justice, I admit the additional evidence filed during the appellate proceedings and set aside the issues in dispute to the file of the AO with the directions to decide the same, afresh, as per law, after giving adequate opportunity of being heard to the assessee and pass a speaking order.

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

Order pronounced on 01-04-2019.

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

Dated :01-04-2019

SR BHATANGAR

Copy forwarded to:

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

AR, ITAT
NEW DELHI.