

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

ITA No. 5986/Del/2018
Assessment Year: 2010-11

RAJENDRA PRASAD,
F-106, Sector-27,
Noida
(PAN: ADBPP53760)
(APPELLANT)

VS. ITO, WARD 3(1),
NOIDA

(RESPONDENT)

Assessee by : Sh. Rohit Tiwari & Sh. Sobhit Tiwari, Advocates
Revenue by : Sh. SL Anuragi, Sr. DR.

ORDER

The Assessee has filed the Appeal against the Order dated 28.6.2018 of the Ld. CIT(A)-I, New Delhi pertaining to assessment year 2010-11 on the following grounds:-

- i) That on the facts and in the circumstances of the case and in law, the order passed by CIT(A) is bad in law.
- ii) That on fact and circumstances of the case and in law, Ld. CIT(A) erred in not admitting the appeal of the appellant by application of section 249(4)(b) of the Income Tax Act, 1961.

- iii) That on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in not providing sufficient opportunity of being heard to the appellant.
- iv) That on the facts and circumstances of the case and in law, the AO erred in not providing sufficient opportunity of being heard to the appellant in order to explain the matter before him.
- v) That on the facts and circumstances of the case and in law, the AO and Ld. CIT(A) erred in confirming the addition of Rs. 18,70,500/- without appreciating the fact that the assessee has provided valid explanation of the amount deposited in the bank account.

That the appellant reserves its right to add, alter, amend or withdraw any ground of appeal either before or at the time of hearing of this appeal.

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 has stated that AO as well as Ld. CIT(A) have decided the issues in dispute against the assessee without giving full opportunity to the assessee for substantiating his claim before them. He further submitted that

assessee is in possession of the relevant evidences which have already been filed before the revenue authorities, but the same were not properly considered by them. It was further submitted that AO has passed the exparte order dated 21.12.2017 u/s. 144/147 of the Act and similarly, Ld. CIT(A) has also passed the non-speaking order on the issues in dispute. Therefore, he requested that the issues in dispute may be sent back to the AO to examine all the evidences on the issue in dispute because all these evidences are required thorough investigation at the level of the AO.

4. Ld. DR has not raised any serious objection on the request of the Assessee's counsel.

5. I have heard both the parties and perused the records. After perusing the relevant records available with me alongwith the orders of the revenue authorities, I am of the considered view that the evidences filed by the assessee on the issue in dispute for substantiating the claim of the assessee are required thorough investigation at the level of the AO. Therefore, issues in dispute are sent back to the file of the AO with the directions to thoroughly examine the evidences filed by the Assessee and decide the issues in dispute afresh, after giving adequate opportunity of being heard to the assessee and pass a speaking order. The Assessee is also directed not to take any unnecessary adjournment and produce all the documents to substantiate his claim before the AO.

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

Order pronounced on 02-04-2019.

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

Dt. 02.04.2019

SR BHATNAGAR

Copy forwarded to: -

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

By Order,

ASSISTANT REGISTRAR
ITAT Delhi Benches