

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,  
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 2572/DEL/2018  
[Assessment Year: 2010-11]

Hussain Ahmad  
House No. 194, Bogowali  
New Mandi, Muzaffarnagar

Vs.

The I.T.O,  
Ward - 1(2)  
Muzaffarnagar

PAN: AGUPA 3117 G

[Appellant]

[Respondent]

Date of Hearing : 23.04.2019  
Date of Pronouncement : 26.04.2019

Assessee by : Shri Amit Aggarwal, CA.

Revenue by : Shri S.L. Anuragi, Sr. DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:**

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals], Muzaffarnagar dated 06.02.2018 pertaining to A.Y 2010-11.

2. The assessee has raised three substantive grounds of appeal. Vide Ground Nos 1 and 2, the assessee has challenged the validity of notice u/s 148 of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'] and vide Ground No. 3, the assessee has challenged the addition made u/s 69A of the Act.

3. Ground Nos. 1 and 2 were not pressed. Accordingly, the same are dismissed as not pressed.

4. Coming to the facts relating to the surviving ground which relates to the addition of Rs. 18,94,800/- I find that as per AIR information, the Assessing Officer sought clarification from the assessee in respect of cash deposits in Savings Bank account totalling to Rs. 18,94,800/-.

5. In its reply dated 03.11.2017, the assessee explained that the total cash deposits have been made after collecting sums from persons who agreed to invest in share business in the form of a investor in pool. The Assessing Officer asked the assessee to furnish complete details, i.e., names,

address, PAN, ITR, source of investment and bank accounts of the parties who have given their money for investment in shares.

6. Though the details were not furnished, but the persons were produced before the Assessing Officer who recorded their statements on 17.11.2017. The statements of Shri Mansab and Shri Mukarram are exhibited at page 4 of the assessment order. After recording the statements, the Assessing Officer observed that the persons could not remember the exact date of lending the money. The Assessing Officer once again asked the assessee to explain the sources of cash deposit in the Savings Bank account. On receiving no plausible reply, the Assessing Officer made an addition of Rs. 18,94,800/-.

7. The assessee carried the matter before the CIT(A) but without any success.

8. Before me, the ld. AR once again reiterated what has been stated before the Assessing Officer. The ld. AR further

submitted that affidavits of all the five persons are placed in the paper book wherein all the five persons have confirmed the fact of having given money to the assessee. It is the say of the Id. AR that the assessee has successfully explained the sources of cash deposits in the Savings Bank account and, therefore, the addition should be deleted.

9. Per contra, the Id. DR strongly supported the findings of the CIT(A).

12. I have carefully considered rival submissions and the affidavits of the following five persons from whom the assessee has claimed to have received money for investment in shares:

- |    |                   |                      |
|----|-------------------|----------------------|
| 1. | Shri Riazudin     | Affidavit at page 12 |
| 2. | Shri Ujer Alam    | Affidavit at page 14 |
| 3. | Shri Mukurram Ali | Affidavit at page 16 |
| 4. | Shri Mansab       | Affidavit at page 19 |
| 5. | Shri Faiz Mohd    | Affidavit at page 21 |

13. A perusal of all the five affidavits shows that none of the deponents have mentioned the amount of money given by them to the assessee. Moreover, even the date of giving the money is not mentioned. Devoid of these facts, the affidavits lose their credibility. Shri Riazuddin works in Saudi Arabia. There is no detail as to when this person came to India and when he gave the money to the assessee. Shri Ujer Alam is an agriculturist. Shri Mukarram Ali is also working in Saudi Arabia and no details have been given about his visit to India. Shri Mansab works in Kuwait and again no details of his visit have been mentioned. Similar is the case of Shri Faiz Mohd who works in Saudi Arabia. The assessee has claimed that all the five persons have given Rs. 3.50 lakhs each but none of the five persons admitted the amount given to the assessee. In my considered opinion, the assessee has grossly failed to discharge the onus cast upon him. Even the bank account of the assessee shows that cash deposits have been made in tranches. If the assessee has received Rs. 3.50 lakhs each from the five individuals, then, the same amount should have been found to have been deposited in the bank account. But the deposits starting from 9<sup>th</sup> April with a sum of Rs. 1.15 lakhs and thereafter, amounts of Rs. 20,000/-, 40,000/- 30,000/-, 50,000/- were found to be deposited on various dates in successive months. This fact also does not support

the claim of the assessee. Considering the facts of the case in totality, I do not find any reason to interfere with the findings given by the CIT(A). Ground No. 3 stands dismissed.

16. In the result, the appeal filed by the assessee in ITA No. 2572/DEL/2018 is dismissed.

**The order is pronounced in the open court on 26.04.2019.**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 26<sup>th</sup> April, 2019.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
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	