

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'SMC', NEW DELHI)**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
ITA No:-1453/Del/2018
(Assessment Year: 2009-10)**

Sh. Puneet Kumar S/o Sh. Nand Kishore 182, Chhipiwara Meerut – 250002	Vs.	Income Tax Officer Ward – 2 (1) Income Tax Office, Bhansali Ground, Delhi Road, Meerut - 2350002
APPELLANT		RESPONDENT

Assessee by : Sh. K. Sampath, Advocate
Sh. V. Raja Kumar, Advocate
Revenue by : Sh. S. L. Anuragi, Sr. DR

Date of Hearing : 20.05.2019
Date of Pronouncement : 21.05.2019

ORDER

PER: N. K. BILLAIYA, AM

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals], Meerut, dated 31.03.2015 for Assessment Year 2009-10.

2. The substantive grievance of the assessee read as under :-

4(a). That the Ld. CIT(A) erred in law and on facts in maintaining the addition of Rs. 82,681=00 in respect of appellant's share of rental income from M/S V Mart Retail Limited and not appreciating the real factual position of the case.

4(b). That the appellant's share of rent from V Mart Retail Ltd for a period of 6 months

during the year under appeal was Rs. 82,690=00. That in support of his claim the appellant had filed copy of form 16A and also bank account where the aforesaid rental income was credited before the Ld. A.O.

4(c). That the Ld. CIT(A) erred in not accepting the extra evidence being of supplementary nature in the form of form 16-A generated from TRACES and copy of appellant's account in the books of M/S V Mart Retail Ltd. under rule 46A of the I.T.Rules on the alleged ground that these were not filed during the course of assessment proceedings.

4(d). That the figures of computation of rental income as mentioned on page-4 of the Appellate Order of the Ld. CIT(A) are not correct.

5(a) That the Ld. CIT(A) erred in law and on facts in maintaining the addition of Rs. 69,375=00 which had been made by the Ld. A.O. on the alleged ground that the amount for purchase of stamps of Rs. 69,375=00 in respect of purchase of shop in Satyam Plaza Complex was not accounted for.

5(b). That the observations of the Ld. CIT(A) that copies of registered agreement and sale deed were not produced before the Ld. A.O. are inconsistent with the factual and legal position of the case.

5(c). That the Ld. CIT(A) also could not appreciate the facts that the Ld. A.O. without ascertaining the real facts by raising any query or question on this aspect of accounting for the expenses for stamps made the addition of Rs. 69,375=00. That as such the appellant was prevented by sufficient cause for not explaining his case on this aspect.

5(d). That the Ld. CIT(A) also did not appreciate that the Ld. A.O. did not make any adverse comment in his remand report on the written submissions of the appellant on this aspect filed during the course of appeal proceedings before him.

6. That the Ld. CIT(A) erred in law and on facts in maintaining the addition of Rs. 2,80,000=00 taken as advance by the appellant against the property. That the Ld. CIT(A) also erred in not entertaining the papers of supplementary nature filed under rule 46A in support of the relevant evidence already filed before the Ld. A.O. That the Ld. A.O. in his remand report did not make any adverse observation on the written submissions of the appellant filed before the Ld. CIT(A) during the course of appeal proceedings.

3. Facts on record show that the assessment was framed u/s. 143 (3) of the Act which was the subject matter before the appeal before the CIT(A), Meerut. During the appellate proceedings the assessee has submitted various documents/ evidences in support of his claim/ contentions. The evidences furnished by the assessee were not admitted by the CIT(A) holding that the same were not furnished before the Assessing Officer during the assessment proceedings on the ground that proper opportunity was given by the Assessing Officer.

4. I have carefully considered the orders of the authorities below and the relevant documents filed before me in the form of paper book. I am of the considered view that these documents can go to the root of the matter and deserves to be examined. Therefore, in the interest of justice, I restore the entire quarrel to the file of the Assessing Officer. The assessee is directed to furnish the relevant documentary evidence in support of his contentions and Assessing Officer is directed to examine the same and decide the issue afresh after giving a reasonable opportunity of being heard to the assessee.

5. In the result, the appeal filed by the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 21.05.2019.

Sd/-
(N.K.BILLAIYA)
ACCOUNTANT MEMBER

Dated: 21.05.2019

Neha

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	20.05.2019
Date on which the typed draft is placed before the dictating Member	20.05.2019
Date on which the typed draft is placed before the Other Member	21.05.2019
Date on which the approved draft comes to the Sr. PS/PS	21.05.2019
Date on which the fair order is placed before the Dictating Member for pronouncement	21.05.2019
Date on which the fair order comes back to the Sr. PS/PS	21.05.2019
Date on which the final order is uploaded on the website of ITAT	21.05.2019
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	

