

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No. 2302/DEL/2019 (A.Y 2009-10)

Sarvjeet Singh C/o Bal Bharti Sr. Secondary School, Aggarwal Colony Fatehabad, Haryana AJWPS4790A (APPELLANT)	Vs	ITO Ward-2 Fatehabad haryana (RESPONDENT)
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Appellant by	Sh. Piyush Kamal, Adv. Sh. Lalit Mohan, Adv
Respondent by	Sh. S. S. Rana, CIT(DR)

Date of Hearing	07.05.2019
Date of Pronouncement	31.05.2019

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 28.01.2019 passed by CIT(A), Hisar for Assessment Year 2009-10.

2. The grounds of appeal are as under:-

“1. That the order of the Learned Assessing Authority is bad in law against facts and equity.

2. That Learned Assessing Authority made assessment u/s 144 without considering the facts, erred in calculating the income and without giving opportunity of being heard

3. That learned Assessing Authority was erred in making addition of Rs. 5911400/- on account of deposit in bank

4. That Learned Assessing Authority was erred in making addition of Rs. 3829480/- on account of deposit of bank.”

3. The assessee and his wife Smt. Veerpal Kaur were maintaining a joint account No. 06041930001326 with HDFC bank, Fatehabad. during the F.Y. 2008-09 relevant to A.Y. 2009-10, huge cash deposits of Rs. 59,11,400/- were found made in his joint account on different dates and different amount. The case of the assessee has selected through CASS and statutory notices were issued. During the assessment proceeding Smt. Veerpal Kaur Submitted that all the cash deposits entries in the said joint account pertain to her husband Sh. Sarvjeet Singh. The fact was confirmed by Sh. Sarvjeet Singh and stated vide affidavit that the transactions were related to him. Taking cognizance of the statement of Sh. Sarvjeet Singh, the case of Smt. Verpal Kaur for the A.Y. 2009-10 was assessed at the returned income and no action with regard to the source of said cash deposits entries were taken in her hands. Since, Sh. Sarvjeet Singh has admitted the fact of operating the said joint account and making the cash deposit in the said bank account the proceeding u/s 147, of the Act were initiated and notice u/s 148 was issued on 28.03.2014 which was served upon him on 29.03.2014 requiring the assessee to deliver the return of income for the A.Y. 2009-10 within 30 days from the date of service of notice. But the assessee failed to do so. Under these circumstances the Assessing Officer was left with no alternative but to complete the time barring assessment to the best of judgment u/s 144 of the Act. And made addition of Rs. 59,11,400/- and Rs. 38,29,480/- u/s 68 of the Act in joint bank account No. 06041930001326 and account No. 11117547994 respectively.

4. Being aggrieved by the above, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee on account of non prosecution.

5. The Ld. AR submitted that the assessee has filed detailed reply before the Assessing Officer as well as before the CIT(A) which was never considered by both the Revenue Authorities. Therefore, both the orders are ex-parte and principle of natural justice has not been properly followed.

6. The Ld. DR submitted that ample opportunities were given by the Assessing Officer as well as by the CIT(A). Therefore, the Assessing Officer has rightly made additions and CIT(A) has rightly dismissed the appeal of the assessee.

7. We have heard both the parties and perused the material available on record. The CIT(A) has dismissed the appeal of the assessee solely on the ground that the assessee's representative has not appeared before the authorities but on merit, the CIT(A) has not at all discussed and decided in light of the reply filed by the assessee before the Assessing Officer as well as before the CIT(A). Therefore, in the interest of justice, it will be appropriate to remand back this matter to the file of the CIT(A) for fresh adjudication on merits. Needless to say, the assessee be given proper opportunity of hearing by following principles of natural justice and it will be an obligatory on part of the assessee to cooperate the adjudicating/appellate authority by remaining present at the time of hearing.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on 31st MAY, 2019.

**Sd/-
(R. K. PANDA)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 31/05/2019
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	06.05.2019
Date on which the typed draft is placed before the dictating Member	07.05.2019
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	.05.2019
Date on which the final order is uploaded on the website of ITAT	.05.2019
Date on which the file goes to the Bench Clerk	.05.2019
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	