

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

**BEFORE SHRI G. D. AGRAWAL, VICE PRESIDENT
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 3007/DEL/2015 (A.Y 2011-12)

Surender Singh Gera 306, Rakesh Deep Commercial Complex, Gulmohar Enclave New Delhi ACKPG2463K (APPELLANT)	Vs	ITO Ward 54(5), Room NO. 1603, E-2 Block, Civic Centre New Delhi (RESPONDENT)
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Appellant by	Sh. Somil Agarwal and Deepak Garg, Adv
Respondent by	Sh. N. K. Bansal, Sr. DR

Date of Hearing	03.04.2019
Date of Pronouncement	30.05.2019

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 31/03/2015 passed by CIT(A)-XVIII, New Delhi for Assessment Year 2011-12.

2. The grounds of appeal are as under:-

1. *“On the facts and circumstances of the case the assessment made by the AO is bad in law thus should be held as nullity.*
2. *On the facts and circumstances of the case, the AO has erred in addition of cash deposit amounting Rs. 55,53,623/-, whereas all the supporting documents in respect of each cash receipts were given and were placed on file.*
3. *On the facts and circumstances of the case, the AO has erred in addition*

of Rs. 2,16,150/- on account of expenses incurred by the assessee towards his business, in spite of the fact that all the details of the expenses were furnished.

4. On the facts and circumstances of the case, the AO has erred in initiation penalty proceedings u/s 271(l)(c) of the Income Tax Act, 1961 on the addition of Rs. 55,63,623/- and Rs. 2,16,150/- for concealing the income by furnishing inaccurate particulars of income.

5. On the facts and circumstances of the case, the AO has erred in charging interest u/s 234B.”

3. The assessee is carrying activities as real estate agent and earned commission amounting to Rs. 9,42,000/- from various small parties and no TDS was deducted by them. During the year, the wife of the assessee had given cash for the investigation in property. The assessee deposited cash amounting to Rs.51,41,000/- in his saving bank account with Andhra Bank and a sum of Rs.4,22,623/- deposited in cash. The return of income was filed on 1/6/2011 declaring total income of Rs. 5,21,130/- which was processed u/s 143(1) of the Income Tax Act, 1961 on 28/10/2011. The case was selected for scrutiny u/s 143(3) of the Act. Accordingly, statutory notice u/s 143(2) of the Income Tax Act, 1961 was issued and served on the assessee on 12/09/2012. In response to the notice issued, CA/AR of the assessee attended the assessment proceedings from time to time and filed requisite details which were taken on record by the Assessing Officer. The Assessing Officer made an addition in respect of cash deposits amounting to Rs. 55,63,623/- and also made addition relating to business expenses amounting to Rs.2,60,150/-.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the evidence produced before the Assessing

Officer as well as placed before the CIT(A) relating to confirmation of Mrs. Madhu Gera along with her PAN as well as agreement to sale by Mrs. Madhu Gera showing receipt of addition cash by her was not at all considered by the Assessing Officer as well as by the CIT(A). Therefore, the Ld. AR requested that this matter may be remanded back to the file of the Assessing Officer for taking cognizance of the evidence produced before the Assessing Officer during the assessment proceedings.

6. The Ld. DR relied upon the order of the Assessing Officer and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. From the perusal of the records it can be seen that the Assessing Officer as well as CIT(A) has not considered the evidences given by the assessee during the assessment proceedings. Therefore, it will be appropriate to remand back this matter to the file of the Assessing Officer for taking cognizance of the evidences produced by the assessee and after verifying the same and as per the legal aspect besides the case afresh. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

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

Order pronounced in the Open Court on 30th May, 2019.

Sd/-
(G. D. AGRAWAL)
VICE PRESIDENT

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 30/05/2019
*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	03.04.2019
Date on which the typed draft is placed before the dictating Member	04.04.2019
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	.2019
Date on which the file goes to the Bench Clerk	.2019
Date on which the file goes to the Head Clerk	