

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

**Before Sh. T. S. Kapoor, Accountant Member**

**ITA No. 203/Del/2019 : Asstt. Year : 2010-11**

Om Prakash, 137A, Community Centre Area, Post Officer Ujwa, Samas Pura Khalsa, New Delhi-110073	Vs	Income Tax Officer, Ward-43(2), New Delhi-110002
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. BHDPP2110H</b>		

**Assessee by : Sh. Chahat Sharma, Adv.  
Revenue by : Sh. S. L. Anuragi, Sr. DR**

<b>Date of Hearing: 29.05.2019</b>	<b>Date of Pronouncement: 30.05.2019</b>
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**ORDER**

This is an appeal filed by assessee against the order of Commissioner of Income Tax (Appeals)-15, Delhi dated 28.09.2018.

2. The assessee has taken various grounds of appeal. However, the crux of grounds of appeal is the action of Id. Commissioner of Income Tax (Appeals) by which he has confirmed an addition of Rs.30,00,000/- as long term capital gain and Rs.10,00,000/- as unexplained deposit in bank.

3. At the outset, the Authorized Representative submitted that assessee is an agriculturist and had sold agricultural land which was owned by him alongwith his brothers and the amount of deposits in bank represented sale proceeds of such land and in this respect our attention was invited to copy of sale deeds of land placed at paper

book page 7 to 19. It was submitted that assessee had deposited the amount in the bank account from the sale of these lands. The Id. AR submitted that before Assessing Officer this fact was brought into his knowledge and in this respect our attention was invited to para 3 of assessment order where the Assessing Officer has noted that assessee had stated in his reply that Rs.30,00,000/- was deposited out of sale proceeds of three agricultural lands and Rs.10,00,000/- was deposited out of earlier past savings. It was submitted that Assessing Officer however made the additions. It was submitted that before Id. CIT(A) the assessee could not represent, therefore, Id. CIT(A) have passed an *ex-parte* order and it was prayed matter may be set aside to Id. CIT(A) wherein the assessee can explain the additions.

4. The Id. Departmental Representative, on the other hand, submitted that though assessee stated before Assessing Officer that the deposits in the bank represented sale proceeds of agricultural land but did not file any other evidences.

5. The Id. Authorized Representative in his rejoinder stated that copy of sale deed of agricultural land was also filed before the Assessing Officer.

6. I have heard the rival parties and have gone through the material placed on record. From the paper book page 7 to 19, I find that assessee had sold certain agricultural land which the Id. AR claims to have been filed with the Assessing Officer but Assessing Officer has not mentioned the fact of having filed the copies of sale deed with him. However, he has noted in his order that the assessee

had made deposits in the bank out of sale proceeds of agricultural land. The Id. CIT(A) has passed *ex-parte* order as the notice dated 09.08.2018 fixing the date of hearing on 17.08.2018 remained uncomplied and again notice dated 21.08.2018 fixing the date of hearing on 28.08.2018 remained uncomplied with. Though before Id. CIT(A) nobody attended nor filed any adjournment application yet keeping in view the substantial justice, I find it appropriate that matter to be remitted back to Id. CIT(A) and I order accordingly. The Id. CIT(A) should pass a fresh order after providing sufficient opportunity to the assessee of being heard. The assessee is also directed to cooperate in the proceedings before Id. CIT(A) otherwise he will be at liberty to pass order on merits in accordance with law.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

(Order pronounced in the Court on 30<sup>th</sup> day of May, 2019 at New Delhi)

**Sd/-**  
**(T. S. Kapoor)**  
**Accountant Member**

**Dated:30/05/2019**

\*Subodh\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**