

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.6463/Del/2018
Assessment Year: 2008-09

Devender Singh,
S/o Harpal Singh,
Vill. Sikanderpur Kakoli,
Hapur,
Uttar Pradesh.

Vs. ITO,
Ward-3(4),
New Delhi.

PAN: BAWPS8081C

(Appellant)

(Respondent)

Assessee by	:	Shri R.K. Garg, Advocate
Revenue by	:	Shri S.L. Anuragi, Sr.DR
Date of Hearing	:	01.07.2019
Date of Pronouncement	:	02.07.2019

ORDER

This appeal filed by the assessee is directed against the order dated 4th July, 2018 of the CIT(A), Muzaffarnagar, relating to Assessment Year 2008-09.

2. Facts of the case, in brief, are that the assessee is an individual and no return was filed. On the basis of the AIR information regarding cash deposit of Rs.15 lakhs in the savings bank account maintained by the assessee, the case of the assessee was reopened u/s 147 of the IT Act and notice u/s 148 was issued on 16th February, 2015, after taking approval of the competent authority. Although this notice was sent

through registered post and was properly served on the assessee, there was no compliance. Even there was no compliance to the statutory notice issued u/s 142(1) along with the questionnaire. The Assessing Officer, therefore, invoked the provisions of section 144 of the Act and determined the total income of the assessee at Rs.15 lakhs.

3. Before the CIT(A), the assessee challenged the validity of the reassessment proceedings as well as the addition on merit. The assessee also filed certain additional evidences with application under Rule 46A of the IT Rules, 1962 which was forwarded to the Assessing Officer for his comments. The Assessing Officer, in his remand report objected to the admission of the additional evidences. So far as the addition on merit is concerned, the Assessing Officer also disputed the holding of agricultural land by the assessee as well as $\frac{1}{4}$ share in the purchase of the property by the other co-owner. After considering the rejoinder of the assessee to such remand report, the Id.CIT(A) gave only part relief to the assessee and sustained an amount of Rs.12,75,000/- u/s 69A of the IT Act.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:-

“1. That under the facts & circumstances of the case, the learned CIT (A) has erred to confirm the legality of section 147/148. Confirmation of legality is arbitrary, unjust, uncalled-for, illegal and against the provision of Income Tax Act.

2. That under the facts and circumstances of the case, after admitting the additional evidences the Ld. CIT (A) has erred to confirm the addition of Rs. 1275000/- without considering the contents of affidavit and other documents.

The finding is against the natural justice, arbitrary, unjust, uncalled- for, illegal and in any case highly excessive.

3. That under the facts and circumstances of the case, the Ld. CIT (A) has erred to confirm the addition without discharging the onus of taxability in the hands of assessee particularly when neither the income has been assessed nor declared by the appellant to attract the provision of IT Act and confirmation is arbitrary, unjust, uncalled for, illegal and against the provision of IT Act.”

5. I have considered the rival arguments made by both the sides and perused the orders of the authorities below. It is the submission of the ld. counsel for the assessee that the assessee has taken loan against Kisan credit card in his name as well as in the name of his mother which was deposited in the said bank account for purchase of certain agricultural land. It is also his submission that ¼ share of the proposed land to be purchased was deposited by the other co-owner in the bank account of the assessee to be paid to the seller of the land who insisted for taking the entire amount by cheque. It is the submission of the ld. counsel for the assessee that given an opportunity he is in a position to substantiate with evidence to the satisfaction of the Assessing Officer regarding the cash deposits in the bank account maintained by the assessee. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one more opportunity to the assessee to substantiate with evidence to his satisfaction regarding the cash deposited in the bank account. Since the ld. counsel of the assessee did not argue the validity of the reassessment proceedings at this juncture, therefore, the same is dismissed as not pressed. The grounds raised by the assessee on merit are

accordingly allowed for statistical purposes and the legal ground raised by the assessee is dismissed.

6. In the result, the appeal filed by the assessee is partly allowed.

The decision was pronounced in the open court on 02.07.2019.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMFBER

Dated: 02nd July, 2019

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Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi