

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'G', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 5449/Del/2016 : Asstt. Year : 2007-08

ITA No. 4125/Del/2016 : Asstt. Year : 2008-09

ITA No. 4126/Del/2016 : Asstt. Year : 2009-10

ITA No. 4127/Del/2016 : Asstt. Year : 2010-11

ITA No. 4128/Del/2016 : Asstt. Year : 2011-12

Shyam Sunder Jindal, 12A, Green Avenue, Sector-D, Pocket-3, Vasant Kunj, New Delhi-110070	Vs	Asstt. Commissioner of Income Tax, Central Circle-30, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAGPJ0184N		

Assessee by : Sh. Rohit Jain, Adv.

Revenue by : Sh. S. S. Rana, CIT DR

Date of Hearing: 28.08.2019

Date of Pronouncement: 03.09.2019

ORDER

Per Bench:

The present appeals have been filed by the assessee against the orders of the Id. CIT(A)-30, New Delhi dated 24.08.2016 and 16.06.2016.

2. Heard the arguments of both the parties and perused the material available on record.

3. We find that similar matter in assessee's own case for the assessment year 2006-07 in ITA No. 5448/Del/2016 stands adjudicated by the Co-ordinate Bench of ITAT Delhi wherein it was held that "the Assessing Officer informed the assessee about the copy of bank account obtained under DTA. However, a contradictory observation has been made in para 6 of the assessment order that the requisite

information from Swiss Banking Authority had not been received. We, therefore, considering the totality of the facts as discussed hereinabove, set aside the impugned order and restore the matter back to the file of the Assessing Officer to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard and by confronting the assessee with the documents which relates to him. As regards to the legal issue relating to the validity of the assessment u/s 153A of the Act, it is noticed that the assessee in para 2.20 of his written submissions dated 22.08.2016 stated that the search team had confronted the assessee with unauthentic document. In the present case, it is not clear as to whether any authentic document was confronted to the assessee or not. The Assessing Officer also mentioned that a reference was made on 27.11.2012 but it is not clear for which purpose the said reference was made. So in the absence of clear facts on record, this issue is also set aside to the file of the Assessing Officer to be adjudicated afresh, in accordance with law after providing a due and reasonable opportunity of being heard to the assessee". Since, the verbatim of the order, in the present case is also same, and in the absence of any change in the material facts, we hereby remand the matter back to the file of the Assessing Officer to adjudicate afresh, in accordance with law after providing opportunity of being heard to the assessee.

4. In the result, the appeals of the assessee are allowed for statistical purpose.

(Order Pronounced in the Open Court on 03/09/2019).

Sd/-

(Amit Shukla)
Judicial Member

Dated: 03/09/2019

Subodh

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR