

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 1636/Del/2019
Assessment Year: 2010-11

NEERAJ GARG,
C-25, SHAKTI NAGAR EXTN.,
NEW DELHI - 110 052
(PAN: AERPG7111H)
(ASSESSEE)

VS. ITO, WARD 34(4)
NEW DELHI

(RESPONDENT)

Assessee by: Sh. Ridhi Karan Aggarwal, CA
Revenue by: Ms. Ekta Vishnoi, Sr. DR.

ORDER

This appeal is filed by assessee against the Order dated 26.10.2018 passed by the Ld. CIT(A)-12, New Delhi relating to Assessment Year 2010-11 on the following grounds:-

1. That on the facts and circumstances of the case, the reassessment proceedings concluded by the AO under section 147 of the Income Tax Act, 1961 and confirmed by the CIT(A) is without supplying the reasons for initiating the proceedings and hence, bad in law and void ab initio.
2. That the CIT(A) has erred in law and facts in confirming the addition made by the AO aggregating Rs. 11,88,200/- for AY 2010-11 vide order dated 22.12.2017 passed under section 143(3) r.w.s. 147 of the Act, without giving adequate opportunity to the appellant to make submissions.
 - 2.1 That the CIT(A) has erred in law and facts by upholding the order of AO which was passed against the principle of natural justice and hence, void.
 - 2.2 That the CIT(A) has erred in not making any independent enquiry or asking for the received reports for verification of facts, when he has got wide powers.

3. That the CIT(A) has erred in law and facts by upholding the exparte order passed by the AO.
4. That the CIT(A) has erred in law and facts in not allowing the appellant to produce the relevant supporting documents when the appellant has documents to substantiate that sources of alleged cash deposit aggregating Rs. 11,88,200/- was out of the business proceeds.
5. That the AO erred on facts and in law in charging interest under section 234B of the Act.
6. That the AO has erred in law and facts initiating the penalty proceedings under section 271(1)(c).
7. That the appellant craves, leaves to add, amend, and delete any other grounds of appeal.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. During the hearing, Ld. counsel for the assessee has stated that Ld. CIT(A) has not given sufficient opportunity to the assessee for substantiating the claim to the assessee and passed the exparte order without hearing the assessee. He further stated that assessee is having all the necessary evidences for substantiating the claim of the assessee. Hence, he requested that the issues in dispute may be remitted back to the file of the Ld. CIT(A) to decide the same afresh, as per law after giving adequate opportunity of being heard to the assessee.

4. On the contrary, Ld. DR relied upon the orders of the revenue authorities.

5. I have heard both the parties and perused the records especially the orders of the revenue. No doubt that the assessee remained non-cooperative before the Ld. CIT(A). Ld. Counsel for the assessee undertakes to appear before the Ld. CIT(A) and will cooperate in speedy

disposal of the appeal as well as not seek any unnecessary adjournment before the Ld. CIT(A). In the interest of justice, I set aside the issues in dispute to the file of the Ld. CIT(A) for hearing on **13.01.2020 at 10.00 AM** with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee. It is made clear that no notice for hearing will be issued by the Ld. CIT(A). Assessee is also directed through its Counsel to appear before the Ld. CIT(A) on **13.01.2020 at 10.00 AM** for hearing to substantiate its case and did not take any unnecessary adjournment in the case.

6. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on 03/10/2019.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 03/10/2019

"SRB"

Copy forwarded to: -

1. Appellant -
 2. Respondent -
 3. CIT
 4. CIT (A)
 5. DR, ITAT
- TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches

