

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'SMC' : NEW DELHI)
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
ITA NO. 7846/DEL/2018
(A.Y. 2010-11)

BANDANA BAHUGUNA, FLAT NO. 301, VILLA GRAND, HIRANANDANI ESTATES, THANE (WEST), MUMBAI -400607 (PAN: AURPB6558R)	VS.	ITO, WARD 44(5), NEW DELHI
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Assessee By	SH. ANKUSH JAIN, FCA
Revenue By	MS. EKTA VISHNOI, SR. DR.

ORDER

Assessee has filed this appeal against the impugned order dated 30.7.2018 passed by Ld. CIT(A)-15, New Delhi on the following grounds:-

1. That having regard to facts and circumstances of the case, Ld. CIT(A) has erred, in law and on facts, for not deleting the addition of Rs. 5,58,000/- made by the AO and has also erred in making enhanced addition of Rs. 5,04,000/- to the income u/s. 69 without appreciating the fact that the cash element used, in acquiring joint residential property, is not pertained to the relevant assessment year instead it related to the earlier year which is clearly evident from the registration documents.
2. That the order of the Ld. CIT(A) is bad in law and deserves to be set aside in view of the fact that Ld. CIT(A) and Ld. AO have no jurisdiction under section 147 read with section 149, for assessing the income,

which not pertained to previous year, in relevant assessment year.

3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in upholding the order of AO and enhancing the addition u/s. 69 in the hands of the assessee without appreciating the fact that property purchased is joint property purchased from joint resources; share of which clearly defined in the registration documents.
4. That having regard to the facts and circumstances of the case, the order of the Ld. CIT(A) upholding the order of AO and enhancing the addition u/s. 69 as unexplained investment is bad in law, erroneous, arbitrary and untenable.
5. That Ld. CIT(A) has erred in sustaining the order of charging of interest u/s. 234B & 234C of the Income Tax Act, 1961 and has also erred in sustaining the initiation of penalty proceedings u/s. 271(1)(c) of the Income Tax Act, 1961.
6. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.

It is therefore prayed that order of CIT(A) be kindly set aside and the addition sustained and enhancement made of Rs. 10,62,000/- be directed to be deleted.

Prayer:-

For the foregoing reasons, the appellant prays that your goodself may be pleased to :-

- a) Set aside the order in appeal CIT(A)-15/Del/205/17-18 dated 30.7.2018 passed by the

Ld. CIT(A)-15, Delhi and to allow the appeal in entirety.

- b) Pass any other order or further order(s) in favour of the appellant as may be deemed fit and proper in the facts and circumstances of the case.

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 convenience.

3. At the time of hearing, Ld. Counsel for the assessee has drawn my attention towards the impugned order passed by the Ld. CIT(A) dated 30.07.2018 and stated that Ld. CIT(A) has passed the ex parte impugned order against the assessee without giving adequate opportunity to the assessee. Therefore, he requested that the issues in dispute may be set aside to the file of the Ld. CIT(A) with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee. He undertakes that if this Bench set aside the issues in dispute to the file of the Ld. CIT(A) for fresh adjudication, the assessee will fully cooperate with the Ld. CIT(A) in the proceedings and will not take any unnecessary adjournment.

4. On the contrary, Ld. DR has not raised any serious objection on the request of the Ld. Counsel for the assessee. He also relied upon the orders of the authorities below.

5. I have heard both the parties and perused the records especially the impugned order passed by the Ld. First Appellate Authority. I find that the assessee remain non-cooperative before the Ld. CIT(A). However, the Ld. Counsel for the assessee undertakes that assessee will appear before the Ld. CIT(A) and cooperate in the proceedings and not sought any unnecessary adjournment, if this Bench set aside the issues in dispute to the Ld. CIT(A) for fresh adjudication. I note that Ld. CIT(A) vide his impugned order dated 30.7.2018 has decided the appeal of the assessee

exparte. Keeping in view of the facts and circumstances of the case and in the interest of justice, the issues in dispute are remitted back to the file of the Ld. CIT(A) to decide the same afresh, after giving adequate opportunity of being heard to the assessee.

6. In the result, the Appeal of the Assessee is allowed for statistical purposes.

Order pronounced on this 03rd day of October, 2019.

Sd/-

**(H.S. SIDHU)
JUDICIAL MEMBER**

Dated the 03.10.2019
SRB

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A), New Delhi.
5. CIT(ITAT), New Delhi

AR, ITAT

