

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

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 1668/DEL/2019
[A.Y 2010-11]

Smt. Jayashree Nagar
C - 299, Sector Gama - 1
Greater Noida

Vs. The Income tax Officer
Ward 1(5)
Noida

PAN: APUPD 1391 L

(Applicant)

(Respondent)

Assessee By : Shri Arun Kumar Kundra, Adv

Department By : Ms. Ekta Vishnoi, Sr. DR

Date of Hearing : 07.10.2019

Date of Pronouncement : 07.10.2019

ORDER

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - 1, Noida dated 28.09.2018 pertaining to assessment year 2010-11.

2. The sum and substance of the grievance of the assessee is that, inspite of documentary evidences furnished before the ld. CIT(A),

addition of Rs. 14.05 lakhs has been confirmed by an order, which is erroneous on facts.

3. Briefly stated, the facts of the case are that as per Non PAN AIR information, the Assessing Officer came to know that the assessee has deposited cash amounting to Rs. 14.05 lakhs in the Savings Bank A/c maintained with Bank of Baroda, Noida. On verification, a letter was issued by the Assessing Officer seeking information to the source of cash deposited in the said bank account. On receiving no plausible reply, the Assessing Officer proceeded exparte and made addition of Rs. 14.05 lakhs vide an order dated 27.10.2017 framed u/s 144 of the Income tax Act, 1961.

4. Aggrieved, the assessee carried the matter before the Id. CIT(A) and vehemently contended that while proceeding u/s 147 of the Act, the Assessing Officer completely ignored the return filed by the assessee u/s 139(1) of the Act.

5. In so far as the evidences explaining the source of cash deposits is concerned, the first appellate authority did not even whisper a word about it in his 57 pages appellate order.

6. Before me, the ld. counsel for the assessee once again stated that the assessee has evidences to explain the source of cash deposits in his Savings Bank A/c. It is the say of the ld. counsel for the assessee that for some personal reasons, the assessee could not attend the assessment proceedings and before the ld. CIT(A), he tried to explain but could not succeed.

7. Per contra, the ld. DR supported the findings of the Assessing Officer.

8. I have carefully considered the assessment order and the order of the first appellate authority. There is no dispute that the assessment has been framed exparte. The order of the first appellate authority is full of extraneous considerations maligning other revenue officers, but devoid of any reference to the evidences relating to the sources of cash deposits. Such order of the first appellate authority cannot be considered for adjudication. I, therefore, deem it fit to restore the issue to the file of the Assessing Officer. The assessee is directed to once again file all evidences to explain the source of cash deposits and the Assessing Officer is directed to examine the same and decide the

issue afresh after giving reasonable and sufficient opportunity of being heard to the assessee. I order accordingly.

9. In the result, the appeal of the assessee in ITA No. 1668/DEL/2019 is treated as allowed for statistical purposes.

The order is pronounced in the open court on 07.10.2019.

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 07th October, 2019

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

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Date on which the typed draft is placed before the Other Member	
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Date on which the fair order is placed before the Dictating Member for pronouncement	
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