

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

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER**

I.T.A. No. 8319/Del/2018  
Assessment Year: 2010-11

RAJBIR  
S/O RAM DHARI,  
VILLAGE MADLAUDA,  
PANIPAT  
HARYANA-132113  
(PAN: DFTPS8949B)  
**(ASSESSEE)**

VS. ITO, WARD-5,  
PANIPAT  
PALIKA BAZAR,  
PANIPAT-132103

**(RESPONDENT)**

**Assessee by:** Sh. Pradeep Kumar, CA  
**Revenue by:** Ms. Ekta Vishnoi, Sr. DR.

**ORDER**

This appeal is filed by assessee against the Order dated 22.10.2018 passed by the Ld. CIT(A), Karnal relating to Assessment Year 2010-11 on the following grounds:-

1. That the order passed under section 144/147 is not valid and liable to be quashed at the very outset as no notice u/s. 148 has ever been served on the assessee.
2. That AO has not provided the copy of notice issued u/s. 148 and the copy of reasons recorded by him for reopening of the case even on making specific request for providing the same.
3. That AO has not provided the opportunity of being heard even on making specific request for providing the same.
4. That the Ld. CIT(A) has erred in confirming the addition made by the AO for a sum of Rs. 10,00,000/- without considering the evidences, explanations and details furnished by the assessee.
5. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the addition made

by AO of a sum of Rs. 10,00,000/- on the sole ground that a cash deposit of Rs. 10,00,000/- has been made in the joint bank a/c in which the assessee was joint holder without appreciating the fact that the money has been deposited by the second holder of the account.

6. That each ground of appeal is without prejudice to one another.
7. That the appellant reserves to itself, the right to add, alter, amend, substitute, withdraw and / or any ground(s) of appeal on or before the date of hearing.

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 AO has passed the exparte order u/s. 144/147 of the Act. He further submitted that no notice u/s. 148 of the Act was served upon the assessee and this assessment was completed by the AO and wrongly confirmed by the Ld. CIT(A), which is contrary to the principle of natural justice. He further submitted that Assessee has requested for various evidences which has been used by the revenue authorities against the assessee, but the same has not been supplied and the addition in dispute has wrongly been made. He requested that the assessee is having all the evidences to substantiate his case before him. He has also filed the 02 Paper Books containing pages one is containing Annexure A-1 to A-41 and another containing pages 1-22 in which he has attached the copy of letter dated 29.12.2017 filed before AO alongwith the following annexures i.e. copies of Form; ITR acknowledgement of Mr. Tejbir Singh for AY 2010-11 and letter dated 8.10.2018 filed before the Ld. CIT(A) alongwith copy of the bank statement and stated that these evidences are very much essential to adjudicate the issues in dispute by thoroughly examining the same at the level of the Assessing Officer, afresh. Hence, he requested the Bench to set aside the issue in dispute to the file of the

AO to frame the assessment *de-novo* and decide the issues in dispute, as per law, after giving adequate opportunity of being heard to the assessee.

4. On the other hand, Ld. DR relied upon the orders of the authorities below.

5. I have heard both the parties and perused the records, especially the orders of the revenue authorities. I am of the view that there is no doubt that assessee remained non-cooperative before the AO. But I find that AO has passed the *exparte* order u/s. 144/147 of the Act and it was the contention of the ld. counsel for the assessee that no notice u/s. 148 of the Act was served upon the assessee and therefore, assessment was completed by the AO *exparte*, which is contrary to the principle of natural justice. I note that Assessee has requested for various evidences which has been used by the revenue authorities against the assessee, but the same has not been supplied and the addition in dispute has been made. Since assessee is now having all the evidences to substantiate his case and filed the same evidences in the shape of 02 Paper Books containing pages one is containing Annexure A-1 to A-41 and another containing pages 1-22 in which he has attached the copy of letter dated 29.12.2017 filed before AO alongwith the following annexures i.e. copies of Form; ITR acknowledgement of Mr. Tejbir Singh for AY 2010-11 and letter dated 8.10.2018 filed before the Ld. CIT(A) alongwith copy of the bank statement and stated that these evidences are very much essential to adjudicate the issues in dispute by thoroughly examining the same at the level of the Assessing Officer, afresh. Hence, I set aside the issue in dispute to the file of the AO with the directions to frame the assessment *de-novo* and decide the issues in dispute, as per law, after giving adequate opportunity of being heard to the assessee. Assessee is also directed through his counsel to file any other evidences/ documents with the AO at the time of proceedings to substantiate his case and did not take any unnecessary adjournment and fully cooperate with the AO.

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

Order pronounced on 11/10/2019.

**Sd/-**  
**[H.S. SIDHU]**  
**JUDICIAL MEMBER**

Date 11/10/2019

**"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