

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "Friday E": NEW DELHI
BEFORE SHRI H.S.SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

SA No. 909/Del/2019
(In ITA No. 7507/Del/2019)
(Assessment Year: 2011-12)

Angad Yadav, H. NO. 224/C, Block-J, Prem Nagar-2, Kirari, Suleman Nagar, New Delhi PAN: ADAPY5048B	Vs.	ITO, Ward-37(2), New Delhi
(Appellant)		(Respondent)

&
ITA No. 7507/Del/2019
(Assessment Year: 2011-12)

Angad Yadav, H. NO. 224/C, Block-J, Prem Nagar-2, Kirari, Suleman Nagar, New Delhi PAN: ADAPY5048B	Vs.	ITO, Ward-37(2), New Delhi
(Appellant)		(Respondent)

Assessee by :	Shri Alok Vasant, CA
Revenue by:	Ms. Rakhi Bimal, Sr. DR
Date of Hearing	25/10/2019
Date of pronouncement	13/01/2020

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This stay application is filed by the assessee for stay of demand of Rs. 5,17,710/- until disposal of appeal.
2. Assessee has filed an appeal against the order of CIT(A)-37, New Delhi wherein, the addition made by the Id Assessing Officer of Rs. 1085000/- is confirmed.
3. The issue involved in the appeal is that assessee has deposited cash of Rs. 1085000/- in his bank account with ICICI Bank during FY 2010-11

related to AY 2011-12. The assessee did not file any return of income. Therefore, notice u/s 148 was issued on 27.03.2018. The assessee did not file any return. Statutory notices were also served, however, no response was received. Inspector was also deputed but the assessee's address was found locked. Therefore, the Id Assessing Officer passed an order u/s 144 read with 147 of the Act on 18.12.2018 determining total income of the assessee at Rs. 1085000/-.

4. The assessee preferred appeal before the Id CIT(A) wherein, the assessee submitted that he is trading in cloth and therefore, no return is required to be filed and only 8% of the sale is chargeable to tax as income. Id CIT(A) rejected the contention of the assessee as no evidence regarding the business was submitted. Therefore, assessee is in appeal.
5. Before us assessee submitted that he has submitted the submission to the Id Assessing Officer vide e-mail dated 15.11.2018, wherein, assessee has submitted that it is engaged in business of trading of cloth as well as submitted the bank statements. He submitted the copy of email dated 15.11.2018. He submitted that AO did not consider the same. He also submitted that even CIT(A) did not consider the same. He further referred to page No. 21 to 54 of the paper book submitting that these are the bills of purchases and sale of the cloth. Hence, these evidences were not considered by the lower authorities.
6. The Id Departmental Representative vehemently supported the orders of the lower authorities.
7. We have carefully considered the rival contentions and also perused orders of the lower authorities. The assessee is an individual who deposited cash in his bank account. The AO issued query letter as well as deputed the Inspector where the premises was found locked. However, the assessee submitted a copy of email dated 15.11.2018 wherein, he has stated that assessee is carrying on cloth business. Before us assessee has submitted many bills of purchases as well as sales. The Id CIT(A) also did not consider the above information. Therefore, in the interest of justice, we set aside the appeal of the assessee back to the file of the Id AO with a direction to the assessee to appear before AO on or before

28.02.2020 and prove that he is engaged in the business of trading of cloth and is eligible for benefit of presumptive taxation.

8. In the result appeal of the assessee is allowed for statistical purposes.
9. As we have disposed off the appeal of the assessee the stay application becomes infructuous, hence, dismissed.

Order pronounced in the open court on 13/01/2020.

-Sd/-
(H.S.SIDHU)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated:13/01/2020
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi