

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "FRIDAY/SMC", NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

	I.T.A. No. 4075/DEL/2018	
	AY: 2009-10	
DINESH KUMAR PUNDIR C/O SH. DINESH MOHAN, ADVOCATE, 2-ANAND VIHAR, LANE NO. 1, CIRCULAR ROAD, MUZAFFARNAGAR (PAN: BDSPK5736K)	VS.	INCOME TAX OFFICER, WARD 3(1), SAHARANPUR
(APPELLANT)		(RESPONDENT)

Assessee by : Sh. Ankit Gupta, Adv.
Department by : Ms. Rakhi Vimal, Sr. DR.

ORDER

Assessee has filed the present appeal against the impugned order dated 27.3.2018 passed by the Ld. CIT(A), Muzaffrnagar relating to assessment year 2009-10.

2. At the time of hearing, Ld. Counsel for the assessee only argued that the assessment in the case of the assessee was completed by the AO vide order dated 25.11.2016 passed u/s. 147/144 of the Income Tax Act, 1961 on account of undisclosed sources. Against the assessment order, assessee filed the appeal before the Ld. CIT(A) who vide his impugned order dated 27.3.2018 dismissed the appeal filed by the assessee on the legal as well as on merit without considering the documentary evidences filed by the assessee in the shape of Paper Book. He further argued that AO has recorded the reasons at page no. 9 of the Paper Book filed by the assessee on 03.10.2018 in which the Ld. Counsel for the assessee has argued on approval u/s. 151 of the I.T. Act

which has been taken on 28.3.2016 whereas the reasons have been recorded by the AO on 30.3.2016, which is against the provisions of section 151 of the Act as the approval of the concerned authority as per section 151 of the Act should be after the reasons recorded by the AO whereas in the instant case the approval u/s. 151 of the Act has been taken prior to the reasons recorded which is illegal, against the law and without jurisdiction. Therefore, he requested that the assessment may be quashed and the orders of the revenue authorities may be cancelled by allowing the appeal of the assessee.

3. Ld. DR relied upon the orders of the authorities below.

4. I have heard both the parties and perused the orders of the revenue authorities and perused the Paper Book especially the page no. 9 which is a copy of the reasons recorded. I find that in this case the approval u/s. 151 was granted on 28.03.2016 without recording the reasons and that too prior to recording the reasons, which is against the provisions of section 151 of the Act. Because the approval of the concerned authority as per section 151 of the Act should be after the reasons recorded by the AO whereas in the instant case the approval u/s. 151 of the Act has been taken prior to the reasons recorded which is illegal, against the law and without jurisdiction and shows that approving authority has not applied his mind and given the approval in an arbitrary manner on non-existence of the reasons, which is not permissible u/s. 151 of the I.T. Act, 1961. Even otherwise, the notice issued u/s. 148 of the Act was not in accordance with law and the same deserve to be dismissed.

4.1 Keeping in view of the facts and circumstances of the case and as per the provisions of section 151 of the Act, the approval granted by the competent authority u/s. 151 of the Act and thereafter issue of notice u/s. 148 of the Act

is not in accordance with law , hence on this account the reassessment is hereby quashed.

5. In the result, the Assessee's Appeal assessee stands allowed.

Order pronounced on 23.01.2020.

Sd/-

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

"SRB"

Date: 23.01.2020

Copy forwarded to: -

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

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches