

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

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 3315/DEL/2019
[Assessment Year: 2010-11]

PARDEEP JAIN,
H.NO. H-1/59, 2ND FLOOR,
SECTOR-16, ROHINI,
NEW DELHI - 110 085
(PAN: AFJJPJ5054R)

Vs. ITO, WARD 37(4),
NEW DELHI

[Appellant]

[RESPONDENT]

Assessee by: None
Revenue by : Ms. Parul Singh, Sr. DR.

ORDER

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax [Appeals-13], New Delhi dated 21.02.2019 pertaining to assessment year 2010-11 on the following grounds:-

- 1. That on the facts and circumstances of the case and in law, the AO without application of mind passed the assessment order in question and without appreciating the documents filed in support of its case, Ld. CIT(A) upheld the same.*
- 2. That no statutory notice u/s. 143(2) of the Income Tax Act, 1961 having been issued, the proceedings under the Act and consequent framing of order u/s. 147 and 143(3) is bad in law and non-est.*
- 3. That on the facts and circumstances of the case and in law, the Ld. AO erred in treating the amount of Rs. 11,77,600/- deposited by the assessee as undisclosed income, whereas the same was reported in the return of income for the assessment year in question and Ld.*

CIT(A) was failed to consider the same and upheld the findings of the AO.

- 4. That the Ld. AO erred in holding that the appellant had received an amount of Rs. 11,77,600/- other than the receipts shown in the return of income for the assessment year in question and treating the same u/s. 68 of the Income Tax Act, 1961 despite of discharging the onus by the assessee by providing his return of income for the assessment year in question and Ld. CIT(A) also erred in upholding the addition of Rs. 11,77,600/-.*
- 5. That the observations of the AO are based on surmises and conjectures and are neither supported with any evidence, if any, collected by Department nor verification of the information and application of mind. The AO also failed to appreciate that the assessee had provided his return of income during the course proceedings and discharged hi onus. Further the AO failed to consider return of income filed by the assessee declaring income to the tune of Rs. 2,40,92 on receipts of Rs. 21,40,248/- apart from the contract works and the additions made by the AO were part of the receipts shown under the return of income for the assessment year in question.*
- 6. That the Ld. CIT(A) failed to appreciate, that the assessee has duly filed the Evidence in support of his case.*
- 7. The appellant craves leave to add, alter, amend or vary any of the above grounds during the pendency of the appeal.*

2. Assessee has filed the present appeal on 16.04.2019 which was fixed before the Bench for today i.e. 11.02.2020 by issuing RPAD notice on the address given by the assessee. But in spite of the same, assessee, nor his authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the

present case and the issue involved in the present Appeal, I am of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, I am deciding the present appeal ex parte qua assessee, after hearing the Ld. DR and perusing the records.

3. Ld. DR relied upon the orders of the authorities below especially the order of the Ld. CIT(A) and stated that assessee remained non-cooperative before the revenue authorities, therefore, no lenient view should be taken in favour of the assessee.

4. I have gone through the orders passed by the revenue authorities and perused the contention raised by the Revenue in the grounds of appeal especially the impugned order passed by the Ld. CIT(A). I find that Ld. CIT(A) has passed the ex parte impugned order without providing sufficient opportunity to the assessee. I also find that Ld. CIT(A) has also issued notice by email three times to the assessee. But in response to the same, assessee appeared only one time before the Ld. CIT(A). But in my considered view and in the interest of justice, the issues in dispute require thorough consideration at the level of the Ld. CIT(A) with the directions to decide the same afresh, as per law, after giving adequate opportunity of being heard to the assessee. I hold and directly accordingly.

5. No doubt that assessee remained non-cooperative before the revenue authorities, but keeping in view of the facts of the present case and non-cooperation of the assessee, I am directing the assessee to appear before the **Ld. CIT(A) on 23.04.2020 at 10.00 AM** for hearing.

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

The order pronounced on 12.02.2020.

Sd/-

[H.S. SIDHU]
JUDICIAL MEMBER

Dated:12-02-2020

SRB

Copy forwarded to:

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

Asstt. Registrar,
ITAT, New Delhi