

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC' NEW DELHI
BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER**

I.T.A. No. 5135/Del/2019
Assessment Year: 2010-11

Jeet Ram,
H. No. 115, Vill. Sikrani,
Loni, Ghaziabad, U.P.

(PAN:ADJPR4491A)
(ASSEESSEE)

vs. Income Tax Officer,
Ward-1(3), Ghaziabad

(RESPONDENT)

Assessee by: Sh. Pranshu Singhal, CA
& Ms. Mansi Jain, CA

Revenue by: Ms. Parul Singh, Sr. DR

ORDER

This appeal is filed by the assessee against the impugned order dated 28.03.2019 passed by the Ld. CIT(A)-Ghaziabad relating to Assessment Year 2010-11 on the following grounds:-

1. *On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad, both in the eye of law and on the facts.*
2. *On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad, both in the eye of law and on facts, as the same has been passed without giving assessee a proper and adequate opportunity of being heard in clear violation of the principle of natural justice.*
3. *On the facts and circumstances of the case, Id. CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the initiation of the proceedings under Section 147, read with Section 148, made by A.O. is bad and liable to be quashed as the condition and procedure prescribed under the statute have not been satisfied and complied with.*
4. *On the facts and circumstances of the case, Id. CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the initiation of the proceedings under Section 147, read with Section 148, made by A.O. is bad and liable to be quashed as the reasons on the basis of which the reassessment is initiated has no live link between the material and the belief formed.*

5. (i) *On the facts and circumstances of the case, Id. CIT(A) has erred both on facts and in law in confirming the order of the A.O. despite the same having been made on the basis of reasons recorded without there being any independent application of mind.*

(ii) *That the re-reassessment order passed by the A.O. is bad and liable to be quashed as the same has been reopened on the basis of the reasons which are vague and has been recorded only on borrowed satisfaction.*

6. *On the fact and circumstances of the case, Id. CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that mere depositing cash in the bank accounts does not tantamount to escapement of income.*

7. *On the fact and circumstances of the case, Id. CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the reopening u/s 147 of the income tax Act, 1961 is bad in law having been made without obtaining valid approval from the prescribed authority as required u/s 151 of the Income Tax Act, 1961.*

8. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the action of the AO in making an addition of Rs.19,50,000/- u/s 69 of the Act on account of unexplained cash deposits in bank."*

2. At the time of hearing, learned counsel for the assessee stated that the learned First Appellate Authority has decided the issues in dispute against the assessee *ex parte* without providing sufficient opportunity of hearing to the assessee and he requested that the issues in dispute may be set aside to the learned First Appellate Authority to decide the same afresh, as per law, after giving opportunity of being heard to the assessee.

3. Learned DR for the Revenue did not raise any objection on the request of the learned counsel for the assessee.

4. After hearing both the parties and perusing the orders passed by the Revenue authorities especially the impugned order, I am of the considered view that learned First Appellate Authority has decided the issues in dispute against the assessee by passing a non speaking and *ex parte* order and

dismissed the appeal of the assessee in limini which is contrary to law and facts on the file and liable to be cancelled. Therefore, in the interest of justice, I am cancelling the impugned order and setting aside the issues in dispute to the learned First Appellate Authority to decide the same afresh, as per law, after giving opportunity of being heard to the assessee.

5. Keeping in view the non cooperation of the assessee before the Revenue authorities, I am directing the assessee through his counsel to appear before the learned First Appellate Authority on 23.04.2020 at 10:00 am. There is no need to issue notice to the assessee for 23.04.2020 because this order has been pronounced in the Open Court.

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

Order pronounced on 12/02/2020.

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

Date: 12/02/2020
SH

Copy forwarded to: -

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

By Order,

Assistant Registrar, ITAT, Delhi Benches