

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

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No. 7365/DEL/2018 (A.Y 2010-11)

Anil Kumar C/o. Saurabh Gupta & Associates, C-12/114, First Floor, D. B. Plaza, R. D. C, Raj Nagar, Ghaziabad, Uttar Pradesh PAN: AODPK9862P (APPELLANT)	Vs	ITO Ward-1(1) Ghaziabad (RESPONDENT)
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Appellant by	Sh. Satyajeet Goel, CA
Respondent by	Sh. Pradeep Singh Gautam, Sr. DR

Date of Hearing	29.01.2020
Date of Pronouncement	18.02.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 27/08/2018 passed by CIT(A)-16, New Delhi for Assessment Year 2015-16.

2. The grounds of appeal are as under:-

“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not admitting the revised grounds of appeal filed by the assessee which go to the very root of the matter and essential for effective adjudication of appeal therefore impugned order has been passed without observing the principles of natural justice.

2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not quashing the impugned

reassessment order passed by Ld. AO u/s 147/143(3) and that too without complying the various mandatory condition of section 147 to 151 of Income Tax Act, 1961.

3. *That in any case and in any view of the matter, action of Ld. CIT(A) in not quashing the impugned reassessment order framed by Ld. AO u/s 143(3)/147, is beyond jurisdiction, bad in law and against the facts and circumstances of the case.*

4. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making aggregate addition of Rs.3,99,000/- on account of unsecured loan received from various persons u/s 68 of Income Tax Act, 1961.”*

3. During the relevant year, the assessee is carrying the business of photography and Mixing of videos in the name and style of M/s JSM Multimedia System. The assessee filed return of income u/s 139 (1) declaring in income of Rs. 1,64,650/- on 19/10/2010. The case was reopened u/s 147 of the Act. In response to notice u/s 148, the assessee filed return of income on 26/04/2017. The Assessing Officer made assessment u/s 147 read with Section 143(3) of the Act on 20/12/2017 and made addition of Rs. 3,99,000/- on account of unexplained cash credit u/s 68 and Rs. 49,730/- on account of unexplained deduction u/s 80C of the Act.

4. Being aggrieved by the assessment order, the assessee filed the appeal before the CIT(A). The CIT(A) dismissed the appeal.

5. The Ld. AR submitted that the CIT(A) has not adjudicated the ground of jurisdiction as relates to objection to assumption u/s 148 being not disposed off by the Assessing Officer. Therefore, the Ld. AR submitted that on legality

and the validity of Section 148, the matter may be remanded back to the file of the CIT(A) for adjudicating the validity of Section 148 itself.

6. The Ld. DR relied upon the assessment Oder and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. From the perusal of the order of the CIT(A), it can be seen that whether reopening u/s 148 is valid or not has not been adjudicated upon by the Assessing Officer as well as the CIT(A). Thus, it will be appropriate to remand back this issue to the file of the CIT(A) for adjudicating the legal point. Needless to say, the assessee be given of opportunity for hearing by following principles of natural justice. We are not commenting on the merit of the case which is open to the CIT(A) to adjudicate there upon if the assessee fails on the jurisdiction issues itself.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on 18th February, 2020.

**Sd/-
(R. K. PANDA)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 18/02/2020
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	30.01.2020
Date on which the typed draft is placed before the dictating Member	30.01.2020
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	18.02.2020
Date on which the final order is uploaded on the website of ITAT	18.02.2020
Date on which the file goes to the Bench Clerk	18.02.2020
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	