

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

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 4142/DEL/2019
[Assessment Year: 2010-11]

RAKESH KUMAR RATHI,
F-4A, BHARAT NAGAR WEST,
NEW DELHI - 110 052
(PAN: AICPR3724)
[Appellant]

Vs. ITO, WARD 34(4),
NEW DELHI

[RESPONDENT]

Assessee by: Shri Prem Pal Sharma, CA
Revenue by: Ms. Parul Singh, Sr. DR.

ORDER

This appeal is filed by the assessee is against the order of the Ld. Commissioner of Income Tax [Appeals-12], New Delhi dated 05.12.2018 pertaining to assessment year 2010-11 on the following grounds:-

1. That on the facts and circumstances of the case and the provision of law, the order passed by Commissioner of Income Tax in support of confirming the addition made through the order of the Income Tax Officer under section 143(3) of the Act for the assessment year 2010-11 is illegal and bad in law and confirming the additions therein are unjust, unlawful and arbitrary and thus illegal.
2. That on the facts and in the circumstances of the case ad in law in law the Ld. CIT(A) erred by confirming the addition made by the AO wherein addition of Rs. 45,38,354/- on account of undisclosed income as

same is shown under section 44AF of the Income Tax Act.

3. That on the facts and in the circumstances of the case and in law the Ld. CIT(A) erred by confirming the addition made by the AO and denying to give the advantage of presumptive taxation of calling the detailed explanation on books of accounts which is contrary to the law.
4. That on the facts and in the circumstances of the case and in law the Ld. CIT(A) erred by confirming the addition made by the AO wherein the assessment order, Section under which assessment is made not mentioned.
5. That on the facts and in the circumstances of the case and in law the Ld. CIT(A) erred by confirming the addition made by the AO wherein that the various observation and findings of the AO in the impugned assessment order is denied being vitiated in law and contrary of the facts.
6. That the Ld. CIT(A) erred by making addition without any documentary evidences which is not appropriate in eye of law and such addition is uncalled for unjustified and hence to be deleted.
7. That the appellant craves the right to add, alter, append delete any of all ground of appeal.

2. At the time of hearing Ld. Counsel for the assessee stated that Ld. CIT(A) has passed the exparte impugned order without providing sufficient opportunity to the assessee. He requested that

the issues in dispute may be set aside to the Ld. CIT(A) to decide the same afresh, after giving adequate opportunity of being heard to the assessee.

3. On the contrary, Ld. DR relied upon the impugned order.

4. I have heard both the parties and perused the orders of the authorities below. I am of the view that Ld. CIT(A) has not given sufficient opportunity to the assessee, therefore, in the interest of justice I am setting aside the issues in dispute to the Ld. CIT(A) to decide the same afresh after giving adequate opportunity of being heard to the assessee.

4.1 Keeping in view of the non-cooperation of the assessee, I am directing the assessee through his counsel to appear before the Ld. CIT(A) on **23.04.2020 at 10.00 am** for hearing. There is no need to issue the notice by the Ld. CIT(A) to the assessee, since this order has already been pronounced in the open court.

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

The order pronounced on 19.02.2020.

Sd/-

[H.S. SIDHU]
JUDICIAL MEMBER

Dated:19-02-2020

SRB

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi