

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'I(2) + SMC 1' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER,
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 4451/DEL/2019 (A.Y 2010-11)

Gopal Sharma 803, Chandra CGHS, Plot No. 64, Golf Course, Sector-55, Gurgaon, Haryana AAZPS6693J (APPELLANT)	Vs	ITO Ward-13(1) Room No. 306, C. R. Building, I. P. Estate, New Delhi (RESPONDENT)
--	----	---

Appellant by	Ms. Bhawana Garg, Adv
Respondent by	Sh. Pradeep Singh Gautam, Sr. DR

Date of Hearing	04.03.2020
Date of Pronouncement	20.03.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 25.2.2019 passed by CIT(A)- 36, New Delhi for Assessment Year 2010-11.

2. The grounds of appeal are as under:-

"1. That in the above said case the applicant received the final assessment order dated 26.10.2017 as on 28.10.2017 whereby the total income by the ITO for the AY 2010 to 2011 was assessed at Rs. 9,22,500.

2. That since the Assessment order was silent as regard necessary particulars pertaining to sanction requisite under the law the appellant through RTI application dated 26.12.2017 applied for the copies of entire note-sheets and sanction order accorded under section 151 of the Income Tax Act

along with other documents. File no. ITO Ward-13 (1) 145.

3. That vide letter dated 08.02.2018 Income Tax Officer disposed off the said application of under RTI Act by calling upon the assessee to collect the requisite documents which was supplied on 08.02.2018.

4. That since some more information was requisite the assessee applied for inspection of the file on 27.02.2018 which is shall pending.

However, subject to submitting the same during hearing the appeal was filed on 5/3/2018.

5. That the delay was not intentional but bonafide on account of reasons cited above. It is therefore prayed that the delay of 98 days in filing the appeal may kindly be condoned in the interest of justice and the appeal be heard on merit.”

3. The case of the assessee was opened on the basis of information available on system under NMS. During the Financial Year 2009-10, relevant to Assessment Year 2010-11, the assessee has a transaction in mutual funds aggregating to 12,00,000/- and has also an income from house property aggregating to Rs.3,96,34/-. Before the Assessing Officer, the assessee has not furnished its return of income for the present Assessment Year. The Assessing Officer made addition of Rs. 3,52,500/- u/s 68 in respect of unexplained cash credit. The Assessing Officer also made addition on account of unconfirmed loans amounting to Rs. 4, 00,000/-.

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

5. The Ld. AR submitted that the Assessing Officer as well the CIT(A) has not taken cognizance of the evidence placed before the Revenue Authorities and simply made addition on account of unexplained cash credit. In-fact, the assessee submitted the confirmations from the donors who have gifted the

amount to assessee's daughter on her birthday and they are all family members and relatives. As regards addition on account of unsecured loans, the Ld. AR submitted that the Assessing Officer as well as the CIT(A) did not give sufficient opportunity to the assessee to produce the additional evidence before them.

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

7. We have heard both the parties and perused the material available on record. The Assessing Officer as well as the CIT(A) has not taken the cognizance of the evidences relating to confirmations from the donors. Besides that as relates to addition on account of unsecured loan, the assessee has furnished the confirmation of the lenders which was not properly considered and only was mentioned in the Assessment Order. There is no substantial reasoning given while making both the additions by the Assessing Officer as well as by the CIT(A). Therefore, it will be appropriate to remand back both the issues to the file of the Assessing Officer for fresh adjudication. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. Thus, appeal of the assessee is partly allowed for statistical purpose.

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

Order pronounced in the Open Court on 20th March, 2020.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

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

Dated: 20/03/2020
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	05.03.2020
Date on which the typed draft is placed before the dictating Member	06.03.2020
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	19.03.2020
Date on which the final order is uploaded on the website of ITAT	19.03.2020
Date on which the file goes to the Bench Clerk	19.03.2020
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	