

**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. 2713/DEL/2019 ( A.Y 2010-11)**

East End Apartments CGHS Ltd. 17, Mayur Vihar Phase-1, Extension New Delhi PIN 110096 PAN: AAATT9792N <b>(APPELLANT)</b>	Vs	ITO Ward-60(1) Room No. 306 A, F Block, Vikas Bhawan New Delhi <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>None</b>
<b>Respondent by</b>	<b>Sh. Pradeep Singh Gautam, Sr. DR</b>

<b>Date of Hearing</b>	<b>05.03.2020</b>
<b>Date of Pronouncement</b>	<b>20.03.2020</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 14/02/2019 passed by CIT(A)-19, New Delhi, for Assessment Year 2010-11.

2. The grounds of appeal are as under:-

1. *“Whether the Ld. CIT (A) was justified by upholding the Ld. A.O. order dt.28.12.2017 which are totally based on a general information provided on the basis of AIR/CIB for verification on suspicious STR but nothing to do or even a whisper or any tangible material towards the Appellant.*
2. *Whether the Ld. CIT(A) was justified in sustaining the Assumption of Jurisdiction under section 147 by holding that it has been recorded as per law and notice issued u/s148 after getting Approval as apprised by CIT (A)*

*himself as appeared on page 11 of CIT(A) itself .*

*3. Whether the Ld. CIT (A) was justified in upholding the reasons recorded and issue of notice by the Ld. A.O. after application of judicial mind , are according to the law.*

*4. Whether the Ld. CIT (A) was justified in upholding the A.O. Order which was made on a different footing and not a whisper towards the reasons and further by dismissing the rightful claim of Appellant by holding maintenance charges are nothing but it was rental income and out of it 30% statutory deduction allowable and as a result the additions is being restricted at Rs.5,33,050/-*

*5. Whether the Ld. CIT (A) was justified in passing the order in hurried manner as appeared from para 6.2 of order itself where only one ground taken for consideration despite 4 effective ground taken in form no 35.*

*6. Whether the Ld. CIT (A) was justified to uphold the Ld. AO order on chargeability of interest in a mechanical way as well as initiation of penalty proceedings u/s 271(l)(c).”*

3. The assessee is a Group Housing Society. The case of the assessee was reopened on the basis of AIR/CIB information. The Assessing Officer observed that the assessee has deposited cash of Rs. 32,07,292/- in the saving bank account and received payment of Rs. 8,39,423/- under Section 194A, 194J and 194H but did not file return of income for A.Y. 2010-11. Notice under Section 148 was issued on 30.Nil.2017 was issued and subsequently notice u/s 142(1) was issued. But no response was received therefore final opportunity was given by the Assessing Officer vide notice dated 05.12.2017. The same was replied and during the proceeding, the assessee filed return of income on 25.12.2017 at Rs. 3,60,485/-. The return of income was based on the income from bank interest and interest on fixed deposits. The income from rent from towers of MTNL, Reliance and Airtel installed on the flats to the extent of Rs. 7,61,500/- was added by the Assessing Officer to the income of the assessee.

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

5. None appeared on behalf of the assessee and there is no adjournment application on behalf of the assessee. The notice has been served to the assessee. Therefore, we are taking up the submissions of the assessee before the CIT(A) as well as before the Assessing Officer.

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

7. We have heard the Ld. DR and perused the material available on record. The Assessee before the CIT(A) contended that during the proceedings neither the Assessing Officer has provided the copy of recorded reasons, approval u/s 151(1) nor the same has been mentioned in the body of order. Since the assessee has very little knowledge about the law hence, the same have not been raised during the proceedings. The Assessee further submitted before the CIT(A) that the Assessing Officer has gone beyond the limited jurisdiction, for which the proceedings u/s 147 have been initiated, even without sustaining the reasons in the order and has taken a new stand towards the amount received as maintenances treated as rent from the tower of MTNL, Reliance, Airtel. The Assessing Officer has suo-moto drawn an adverse inferences for not filing of ITR on time as well as additions by way of treating maintenance charges under the Garb of rent. The additions which have been made have no legs to stand and therefore suo-moto Assessment has been framed vide order dt. 28.12.2017 which are against the law and contrary to facts on record. Therefore, the assessee prayed before the CIT(A) that all the additions are liable to be deleted.

8. After going through the Assessment Order and the order of the CIT(A), it can be seen that the CIT(A) as well as the Assessing Officer has not at all considered the contentions of the assessee. Therefore, we are of the opinion

that, it will be appropriate to remand back this issue to the file of the CIT(A). Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. Thus, the appeal of the assessee is partly allowed for statistical purpose.

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

**Order pronounced in the Open Court on 20<sup>th</sup> 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	17.03.2020
Date on which the typed draft is placed before the dictating Member	17.03.2020
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	20.03.2020
Date on which the final order is uploaded on the website of ITAT	20.03.2020
Date on which the file goes to the Bench Clerk	20.03.2020
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	