

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC-1' BENCH,  
NEW DELHI [THROUGH VIDEO CONFERENCE]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 1167/DEL/2018  
[Assessment Year: 2009-10]

Shri Dilshad Ali  
S/o Shri Basheer Ahmed  
House No. 844, Mayur Vihar  
Dasna Ghaziabad

Vs.

The Income tax Officer  
Ward 1 (2)  
Ghaziabad

PAN: AKKPD 5091 L

[Appellant]

[Respondent]

Date of Hearing : 03.06.2020  
Date of Pronouncement : 11.06.2020

Assessee by : Shri Rohit Tiwari, Adv

Revenue by : Shri R.K. Gupta, Sr. DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

This appeal by the assessee is preferred against the order of the  
CIT(A)-2, Noida dated 09.01.2018 pertaining to assessment year 2009-  
10.

2. The sum and substance of the grounds of the assessee is that the ld. CIT(A) erred in confirming the ex-parte order framed by the Assessing Officer u/s 144/147 of the Act thereby wrongly appreciating the facts and upholding the impugned cash credits appearing in the bank account as income of the assessee.

3. Briefly stated, the facts of the case are that as per information which came to the notice of the Assessing Officer on the basis of AIR information relating to deposit of cash amounting to Rs. 36.90 lakhs in the SB Bank A/c held with ICICI Bank Ltd, Raj Nagar, Ghaziabad the Assessing Officer found that the said cash deposit was income of the assessee.

4. Accordingly, statutory notices were issued and served upon the assessee as the case was selected for scrutiny assessment and notice u/s 148 of the Act was served upon the assessee after obtaining necessary approval. Assessment proceedings were not attended by the assessee and the Assessing Officer was forced to frame the assessment order u/s 144 r.w.s 147 of the Act and the entire credit/deposit in the SB Account amounting to Rs. 44,77,600/- was added to the returned income of the assessee.

5. The assessee carried the matter before the Id. CIT(A) and furnished some documentary evidences which prompted the Id. CIT(A) to admit the same and called for remand report from the Assessing Officer.

6. After considering the remand report and additional evidences, the Id. CIT(A) concluded as under:

"I have considered the submission of the appellant, perused the assessment order, remand reports and the rejoinder filed by the appellant during the present proceedings. In view of the examination of the additional evidences by the assessing officer and his observation in the remand report, I am of the opinion that the property owned by relatives of the appellant and the cash available to them out of sale of such properties has nothing to do with the cash deposits made by the appellant in his bank accounts. The appellant has failed to prove any nexus between the cash available to two of his relatives (Husanbano 85 Kharija Khaton) and the cash deposited by him in his bank account. Similarly, the cash book of these two persons has no relevance on the cash deposits made by the appellant in his own bank account. In view of the same, I am of the opinion that the cash deposits in the bank accounts of the appellant remains unexplained. The appellant has also failed to explain the credit entries in the bank account. Saying that the credit entries are out of business without any corroborating evidences do not serve the purpose and the entries

remain unexplained. Therefore, the addition of Rs.44,77,600/- /is confirmed. Grounds of appeal 1 to 5 are, therefore, dismissed."

7. Before us, the ld. counsel for the assessee vehemently stated that though the ld. CIT(A) has admitted additional evidences, but did not appreciate the facts in their true perspective. It is the say of the ld. counsel for the assessee that the ld. CIT(A) dismissed the appeal by holding that the cash book of Smt. Husanbano and Kharija Khatoon were not relevant. Whereas the assessee has furnished cash book of his own which clearly reflected the cash deposits made in the SB Account.

8. Per contra, the ld. DR strongly supported the findings of the Assessing Officer.

9. We have given thoughtful consideration to the orders of the authorities below. The undisputed fact is that the assessment proceedings were not attended by the assessee and the Assessing Officer was compelled to frame order ex-parte. It is also true that the ld. CIT(A) admitted additional evidences and called for remand report. It is equally true that the ld. CIT(A) concluded by confirming addition holding that the cash books of two ladies were not relevant and

thereby completely ignoring the fact that the assessee strongly relied upon his own cash book entries. We are of the considered opinion that the facts of the case in hand have not been properly appreciated, and therefore, we deem it fit to restore the entire issue to the file of the Assessing Officer. The assessee is directed to furnish necessary evidences in support of his claim that the cash deposits are duly reflected in his books of account. The Assessing Officer is directed to examine the same and decide the issue afresh after giving reasonable opportunity of being heard to the assessee.

10. In the result, the appeal of the assessee in ITA No. 1167/DEL/2018 is treated as allowed for statistical purposes.

**The order is pronounced in the open court on 11.06.2020.**

**Sd/-**

**[SUCHITRA KAMBLE]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 11th June, 2020.

VL/

Copy forwarded to:

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

Asst. Registrar  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
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	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	