

IN THE INCOME TAX APPELLATE TRIBUNAL
 DELHI BENCH: 'A', NEW DELHI
 BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
 AND
 SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
 (THROUGH VIDEO CONFERENCE)

ITA NO. 1825/DEL/2011

A.Y. : 2006-07

BALVINDER SINGH MONGA, 22, EXPRESS TOWER, AZADPUR, NEW DELHI -110033 (PAN: AGCPM8860C)	Vs.	ITO, WARD 20(3), NEW DELHI
(Appellant)		(Respondent)

Assessee by	Sh. Satyajit Goel, Adv.
Department by	Sh. Vipul Kashyap, Sr. DR.

ORDER

PER H.S. SIDHU, JM:

This appeal filed by the Assessee is directed against the impugned order dated 20.12.2010 passed by the Ld. CIT(A)-XXII, New Delhi in relation to assessment year 2006-07 on the following grounds:-

1. That on the fact and in the circumstances of the case and in law, the Ld. AO has erred in passing an exparte order without serving notice under section 143(2) of the Income Tax Act, 1961 and

Ld. CIT(A)-XXII has erred in sustaining the impugned assessment order. Hence, the impugned assessment order may, as such, be liable to be quashed.

2. That on the facts and in circumstances of the case and in law, the Ld. AO has erred in not providing the sufficient opportunity to the assessee to explain his case and the CIT(A)-XXII has also erred in not providing the opportunity to the assessee to establish the case by producing the party. Hence, the impugned assessment order may be set aside and sent back to the file of AO for reassessment.
3. That on the facts and in the circumstances of the case and in law, the Ld. AO has erred in law in adding unsecured loans of Rs. 7,00,000/- on wholly untenable, illegal, erroneous, and arbitrary grounds and the CIT(A)-XXII has erred in sustaining the same. Hence, the addition may, as such, be deleted.
4. That on the fact and in the circumstances of the case and in law, the Ld. AO has erred in adding cash deposit of Rs. 4,17,960/- on wholly untenable, illegal, erroneous and arbitrary grounds and the CIT(A) has erred in sustaining the same. Hence, the addition may, as such, be deleted.
5. That on the fact and in the circumstances of the case and in law, the Ld. AO has erred in adding cash deposit of Rs. 1,00,000/- received from father on wholly untenable, illegal, erroneous and arbitrary grounds and the CIT(A) has erred in sustaining the same. Hence, the addition may, as such, be deleted.
6. That on the fact and in the circumstances of the case in law, the Ld. AO has erred in adding cash deposit of Rs. 17,35,000/- received from Sh. Mohan Lal and Nirmala Devi on wholly untenable, illegal, erroneous and arbitrary ground and the CIT(A) has erred in sustaining the same. Hence, the addition may, as such, be deleted.

7. That the appellant craves leave to add, amend, delete or substitute any forgoing grounds of appeal on or before the date of hearing and all the above grounds of appeal are without prejudice to each other.
2. At the time of hearing, Ld. Counsel for the Assessee made a statement that he is not pressing the legal issue involved in ground no. 1 i.e. without serving notice u/s. 143(2) of the I.T. Act, 1961.
3. Ld. DR has not raised any objection on the aforesaid proposition.
4. Keeping in view the statement made by the Ld. Counsel for the assessee and no objection raised by the Ld. DR on the same, the legal issue involved in ground no. 1 is dismissed, as not pressed.
5. As regards the issues involved in other grounds, Ld. Counsel for the assessee mainly stated that the revenue authorities have not given sufficient opportunity to the assessee to substantiate the claim. He further stated that assessee is having all the evidences for substantiating his claim. In support of this contention, he also draw our attention towards the page book filed by the assessee in which he has filed all the documentary evidences for substantiating the claim of the assessee which has not been thoroughly examined by the revenue authorities. Hence, he requested that the other issues in dispute may be set aside to the AO to examine all the evidences filed by the assessee and decide the issues in dispute

afresh, according to law, after giving adequate opportunity of being heard to the assessee.

6. Ld. DR relied upon the orders passed by the revenue authorities and stated that sufficient opportunity has been given to the assessee by the revenue authorities and requested that the impugned order may be upheld by dismissing the appeal filed by the Assessee.

7. We have heard both the parties and perused the records, especially the impugned order passed by the Ld. First Appellate Authority. As per statement made by Ld. Counsel for the assessee, during the hearing that he is not pressing the legal issue involved in ground no. 1 i.e. without serving notice u/s. 143(2) of the I.T. Act and no objection was raised by the Ld. DR on the same, accordingly, we have dismissed the ground no. 1, as not pressed, as aforesaid.

7.1 As regards to the merits of the case, we are of the view that there is a force in the arguments advanced by the Ld. Counsel for the Assessee that assessee has filed all the documentary evidences before the authorities below for substantiating his claim, which have not been properly appreciated by the revenue authorities and no sufficient opportunity was afforded to the assessee. Therefore, in the interest of justice, we are setting aside the issues in dispute only on merits of the case, to the file of the Assessing Officer with the directions to thoroughly examine all the evidences

filed by the Assessee and decide the same, afresh, after giving adequate opportunity of being heard to the assessee.

8. In the result, the Assessee's Appeal is partly allowed for statistical purposes.

The decision is pronounced on 15.10.2020.

Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

"SRB"

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi