

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.849/DEL/2020
Assessment Year: 2009-10

Monad Educational Society 503/93/5, Ashok Bhawan, Nehru Place, New Delhi PAN No.AAABM0630Q	Vs	CIT (E) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Gautam Jain, Advocate Sh. Lalit Mohan, CA
Respondent by	Ms. Pramita M. Biswas

Date of hearing:	06/01/2021
Date of Pronouncement:	11/01/2021

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is directed towards the order of the CIT(E) dated 31.03.2019 pertaining the A.Y.2009-10 framed u/s.263 of the Act.

2. The appellant has vehemently challenged the assumption of jurisdiction by CIT(E) u/s.263 of the Act.

3. The representatives of both the sides were heard at length. Case records carefully perused and with the assistance of the counsel, we have considered the relevant documentary evidences brought on record in the light of rule 18 (6) of the ITAT Rules.

4. Briefly stated the facts of the case are that the appellant is a society registered with Registrar of Society under society Act and is also registered u/s.12A of the Act. Return of income was filed on 25.09.2009 which was processed u/s.143(1) of the Act on 30.03.2011.

5. Subsequently the assessment was framed u/s.143(3) of the Act vide order dated 21.10.2011 and the returned income of NIL rupees was accepted.

6. Subsequently vide notice dated 31.03.2016 u/s.148 of the Act the completed assessment was sought to be reopened and the reasons recorded for reopening the assessment read as under :-

Name of the assessee : **Monad Educational Society (PAN AAABM0630Q)**
93, Ashok Bhawan Nehru Park,,
Delhi -110019

Assessment Year : **2009-10**

Reasons for issuing notice u/s 148 of the Income Tax Act, 1961.

Assessee is an society registered with the Registrar of Societies vide no. s/58396 of 2007 and is also registered u/s 12A of the I.T. Act vide no DIT(E)/12a/2007-08/M-1533/1374 dated 31.12.2007. M/s. Monad Educational society is running an institute in the name and style of "Monad University".

The assessment in the case for A.Y. 2009-10 was completed on 21.10.2011 on returned Nil. In case of assessee information has been received from ITO Ward-3(5), Hapur as mentioned below :-

"During the course of proceedings u/s 147 of the I.T. Act in the case of persons from whom land was purchased by M/s Monad University during the F.Y. 2007-08 and 2008-09, it was noticed that, huge amount in cash has been deposited in the bank accounts of such persons, almost on same dates as that of the sale deed apart from the amount received from Monad University, which has been paid through banking channels like Demand drafts, Cheques etc. The clarification for cash deposit from some of such persons revealed that cash apart from the amount received through banking channels were paid by M/s. Monad University. However, no documentary evidence like, any agreement could be furnished by any of such persons.

The collated facts in the case revealed that land has been purchased by the University from about forty persons during the F.Y. 2007-08 and 2008-09, and in most of the cases cash deposits were found on nearby dates. Since all of these persons are purely agriculturist and do not have any other source of income apart from agriculture, the cash deposit on the very same dates raises suspicion. Copies of few such sale deeds and their respective bank accounts are attached herewith.

As per the statement of account, of bank account of Mr Ravinder as send by ITO Ward-3(5) Hapur it has been, seen that there are certain cash deposit entries as shown below -

Date	Amount
27.04.2007	Rs10,30,000
25.02.2009	Rs 2,00,000
Total	Rs12,30,000

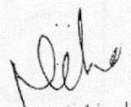
As per the statement of account of bank account of Mr Sohan Pal Singh as send by ITO Ward-3(5), Hapur it has been seen that, there are certain cash deposit entries as shown below that needs verification:

Date	Amount
27.04.2007	Rs 9,90,000
31.01.2008	Rs15,00,000
Total	24,90,000

As per the statement of account of bank account of Mr. Raj pal Singh as send by ITO Ward-3(5) Hapur its has been seen that there are certain cash deposit entries as shown below that needs verification

Date	Amount
11.05.2007-	Rs 1456975
11.05.2007	Rs465000
08.12.2007-	Rs9,50,000
9.01.2008	Rs 400000
23.11.2007-	Rs 2999500
Total	Rs6271475

As per the information received from ITO Ward-3(5) Hapur all these entries relates to the amount paid in cash over and above the stamp duty value of the property. Thus, the above mentioned amount in undisclosed income of assessee paid in cash. The above mentioned fact needs verification. In view of the facts stated above, I have reason to believe that income of Rs 9991475 chargeable to tax has escaped assessment and I am satisfied that it is a fit case to assess u/s 147 of the IT Act. Accordingly, notice u/s 148 is issued. For your kind perusal and necessary action.


 (Neha Yadav)
 Asstt. Commissioner of Income Tax
 Circle-111, Dehra

7. During the course of reassessment proceedings the assessee furnished all the details as required by the AO copies of such replies are placed in the paper book at pages 24 to 31.

8. After completely scrutinizing the details, the assessment was framed u/s.147 r.w.s. 143 (3) of the Act vide order dated 28.04.2016 and once again the returned income of rupees NIL was accepted as such.

9. Now, the CIT(E) assumed jurisdiction u/s.263 of the act.

10. We have carefully perused the orders of the CIT(E). We find that the CIT(E) wants the AO to once again examine all those documents which have already been examined during the original assessment proceedings and also during the reassessment proceedings. Moreover, in the reasons recorded for the reopening the assessment which are exhibited elsewhere only entry of Rs.2 lacs pertained to F.Y. 2008-09 relevant to 2009-10, which year is under consideration and all other entries mentioned therein do not pertain to the year under consideration.

11. At page 11 of paper book No.2 we find a report from the office of DCIT, Circle-1(1), Exemption dated 19.03.2019 which is addressed to CIT (E), New Delhi in which at para-3 it has been reported as under :-

“Further the assessee submitted that an amount of Rs.2,00,000 pertained to A.Y.2009-10 which was deposited in the account of one Mr. Ravinder. In his support the assessee submitted the copies of land purchased and demand draft for the above mentioned transactions.”

4. The office agreed with the contention of the assessee and an order for NIL income was passed”.

12. These clinching evidences / facts are emanating from the records which clearly demonstrate that there was no error in the assessment order framed u/s.143(3) r.w.s. 147 of the Act which can prompt the CIT(E) to assumed jurisdiction u/s.263 of the Act.

13. Considering the factual matrix mentioned here in above we are of the considered opinion that the assessment order dated 28.04.2016 framed u/s.143 (3) r.w.s. 147 of the Act is neither erroneous nor prejudicial to the interest of the revenue and is accordingly restored. The order of the CIT(E) is accordingly set aside.

14. In the result, the appeal filed by the assessee is allowed.

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

NEHA

Date:- 11.01.2021

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	08.01.2021
Date on which the typed draft is placed before the dictating Member	11.01.2021
Date on which the typed draft is placed before the Other member	11.01.2021
Date on which the approved draft comes to the Sr.PS/PS	11.01.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	11.01.2021
Date on which the fair order comes back to the Sr. PS/ PS	11.01.2021
Date on which the final order is uploaded on the website of ITAT	11.01.2021
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	