

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

BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER

(THROUGH VIDEO CONFERENCING)

ITA No.1419/Del/2020
(Assessment Year : 2017-18)

Amit Jain B-2/12, 2 nd Floor, Rana Pratap Bagh, New Delhi-110007 PAN : AGBPJ 8734 F	Vs.	ITO Ward – 62(5) New Delhi
(APPELLANT)		(RESPONDENT)

Assessee by	Ms. Ragini Handa, C.A. Shri Ajay Wadhwa, Adv.
Revenue by	Shri R. K. Gupta, Sr. D.R.

Date of hearing:	07.10.2021
Date of Pronouncement:	13.10.2021

ORDER

PER ANIL CHATURVEDI, AM:

This appeal filed by the assessee is directed against the order dated 11.03.2020 of the Commissioner of Income Tax (Appeals)-20, New Delhi relating to Assessment Year 2017-18.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is an individual who electronically filed his return of income for A.Y. 2017-18 on 07.11.2017 declaring total income at Rs.4,78,070/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 30.11.2019 and the total income was determined at Rs.20,97,120/- *inter alia* by making addition of Rs.16,19,050/- on account of unexplained cash credit on credit card purchases. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who in order dated 11.03.2020 in Appeal No. 10396/2019-20 dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now in appeal and has raised the following grounds:

- “1. *That the Learned CIT(A) has erred on facts and in law in making an addition of Rs.16,19,050/- under section 69A of the Act as unexplained money which is not justified in fact of law. Being wholly based on conjecture and surmises and being untrue, the same must be deleted.*
2. *That on the facts and in the circumstances of the case and in law, Ld CIT(A) erred in not accepting faultless explanation of the assessee regarding the source of cash payments to various credit card purchases amounting to Rs.7,11,682/- and not Rs.16,19,050/- as available to the Learned Assessing officer as per the information available on Individual Transaction Statement (AIR information) which contained duplicate entries and thereby erroneously sustaining wrongful addition of Rs.16,19,050/- made on basis of conjectures and surmises.*
3. *That the Ld. CIT(A) has erred in not considering the additional evidence filed under rule 46A of the Act and thereby adjudicating the manner without calling for remand report from the Assessing Officer which is against the principal of natural justice.*
4. *That the Ld. CIT(A) has failed to consider that the order has been passed by the AO making the additions under reference without giving proper show cause and providing due opportunity to the*

appellant and therefore same is bad in law being passed without following principles of natural justice.

5. *That the Learned CIT(A) has failed to consider that the impugned imitation of penalty proceedings u/s 271AAC of the Act is without recording proper satisfaction in that regard.*
6. *That the provisions of section 234A, 234B and 234C are not applicable in the case of the appellant.*
7. *That the impugned assessment order is arbitrary, illegal, bad in law and in violation of rudimentary principles of contemporary jurisprudence.*
8. *That the appellant crave leave to add or alter any or more ground of appeal as may be deemed fit at the time of hearing.*

It is therefore prayed to kindly quash the proceedings u/s 143(3) or as alternate delete the additions made by the Learned CIT(A).”

4. Before me, pointing to the ground No.3 raised Learned AR submitted that assessee had filed certain additional evidences under Rule 46A of the Income Tax Rules, 1962 before CIT(A) but CIT(A) ignored those additional evidences and dismissed the appeal of the assessee.

5. With respect to the non-acceptance of additional evidences, Learned AR pointed out that the CIT(A) has observed that additional evidences under Rule 46A could not be accepted as no separate application been filed by the assessee. Learned AR submitted that aforesaid observation on not filing a separate application for admission of additional evidences made by CIT(A) is contrary to the facts and in support of the aforesaid contentions she pointed to the letter dated 18.02.2020 which is

duly acknowledged to have been filed in the office of CIT(A) on 18.02.2020 and which is placed at page 33 of the paper book. She therefore submitted that CIT(A) be directed to take the additional evidence on record and thereafter decide the issue.

6. Learned DR did not controvert the submissions made by Learned AR but however supported the order of AO.

7. I have heard the rival submissions and perused the materials available on record. Before me, it is the contention of the assessee that the additional evidences in support of the claim to delete the addition made by AO was filed before CIT(A) but the same was not admitted by CIT(A). I find that assessee had made an application before the CIT(A) as is evident from the copy of letter placed on record but the same has not been considered. Considering the aforesaid facts and in the interest of justice I am of the view that the additional evidences furnished by the assessee be considered as they are in connection with the prayer for deleting the additions made by AO. In view of the aforesaid, I direct the admission of additional evidences. I thus restore the issue back to the file of CIT(A) and direct him to decide the issue afresh in accordance with law after considering the additional evidences and the other submissions made by assessee. Needless to state that adequate opportunity of hearing shall be granted by CIT(A) to both the parties. **Thus the ground of assessee is allowed.**

8. Since the issue has been restored to CIT(A), the other grounds are not adjudicated.

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

Order pronounced in the open court on 13.10.2021

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 13.10.2021

*PY**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI