

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : A : NEW DELHI
BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA No.6801/Del/2018
Assessment Year: 2011-12

Anoop Bishnoi,
D-1028, New Friends Colony,
New Delhi.

Vs JCIT,
Range-22,
New Delhi.

PAN : AAIPB5040R

(Appellant)

(Respondent)

Assessee by	:	Shri Arun Kishore, CA
Revenue by	:	Shri Om Prakash, Sr. DR
Date of Hearing	:	27.10.2021
Date of Pronouncement	:	27.10.2021

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the ex parte order dated 20th August, 2018 of the CIT(A)-31, New Delhi, relating to the assessment year 2011-12.

2. Although a number of grounds have been raised by the assessee, these all relate to the ex parte order of the CIT(A) in confirming the various additions made by the AO.

3. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 17^h September, 2011 declaring the total income at

Rs.45,23,579/-. During the course of assessment proceedings, the AO noted that the assessee had made heavy cash deposits in his bank account and had incurred heavy expenditure through credit cards. He, therefore, asked the assessee to explain the source of cash deposits and other expenditure with documentary evidence. Rejecting the various explanations given by the assessee, the AO made addition of Rs.1,47,37,333/- to the total income of the assessee on account of expenditure incurred through credit cards by the assessee and his family members, the monetary obligation in respect of which has been discharged by his employer. The AO, similarly, made addition of Rs.54,77,500/- being the cash deposited by him in Bank of India, Gawshala Road, Abohar, Patiala, Punjab, amounting to Rs.40,02,500/-, cash received from Shri Satpal of Rs.5,75,000/- and receipt of Rs.9 lakhs from Shri Mahipal in absence of any evidence. Since the assessee did not appear before the CIT(A) despite number of opportunities granted and was seeking adjournment from time to time, the Id.CIT(A), in his ex parte order, upheld the various additions made by the AO by deciding the issue on merit.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

5. The Id. Counsel for the assessee submitted that the previous counsel appointed by the assessee did not appear before the CIT(A) and the assessee was not aware of it. He submitted that in the interest of justice the assessee should be given an opportunity to represent his case before the CIT(A).

6. The Id. DR, on the other hand, strongly objected to the above submission of the Id. Counsel for the assessee and submitted that enough opportunities had been granted by the Id.CIT(A) and the assessee did not bother to appear before him. Further, the Id.CIT(A) has passed an elaborate speaking order. He accordingly submitted that the same should be upheld and the ground raised by the assessee should be dismissed.

7. We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find, the AO, in the instant case, made addition of Rs.1,47,37,333/- on account of credit card expenses incurred by the assessee and his family members which have been met by the employer of the assessee. Further, he has also made addition of Rs.54,77,500/- since the assessee could not explain the source of cash deposited by him in Bank of India, Gawshala Road, Abohar, Patiala, Punjab, amounting to Rs.40,02,500/-, cash received from Shri Satpal of Rs.5,75,000/- and receipt of Rs.9 lakhs from Shri Mahipal in absence of any evidence. We find, the Id. CIT(A) sustained the addition made by the AO in absence of any representation before him to negate the findings given by the AO. It is the submission of the Id. Counsel that due to the non-appearance of the previous counsel, the case of the assessee remained unrepresented before the CIT(A). It is his submission that given an opportunity, the assessee is in a position to substantiate his case. Considering the

totality of the facts of the case and in the interests of justice, we deem it proper to restore the issue back to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and substantiate his case without seeking any adjournment under any pretext, failing which, the ld.CIT(A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

The order was pronounced in the open court on conclusion of the hearing itself, i.e., on 27th October, 2021.

Sd/-

(KULDIP SINGH)
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 27th October, 2021.

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi

