

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC" : DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA.No.3183/Del./2019
Assessment Year 2010-2011

Shri Kapil Dev Marwaha, 16/19, 1 st Floor, Old Rajinder Nagar, New Delhi-060. PAN AKLPM8109M	vs.	The Income Tax Officer, Ward 63(3), 21 st Floor, Block E-2, Pratyaksh Kar Bhawan, Civic Centre, J.L. Nehru Marg, New Delhi – 110 002.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Om Prakash, Sr. D.R.

Date of Hearing :	29.11.2021
Date of Pronouncement :	29.11.2021

ORDER

This appeal filed by the Assessee is directed against the Order dated 18.02.2019 of the Ld. CIT(A)-38, Delhi, relevant to the A.Y. 2010-2011.

2. None appeared on behalf of the assessee at the time of hearing. The order sheet entry shows that the assessee was not appearing in the past occasions. The notice issued through RPAD fixing the hearing for 29.11.2021 was returned by the Postal Authorities with the

remark "No such person at this address". The assessee has also not taken any steps to intimate the change of address, if any. Under these circumstances, I deem it proper to decide the issue on the basis of the material available on record and after hearing the Ld. D.R.

3. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the Ld. CIT(A) in sustaining the various additions made by the A.O.

4. Facts of the case, in brief, are that the assessee is an individual and had not filed his return of income for the impugned assessment year. On the basis of the information received that assessee has made investment in shares/ securities to the tune of Rs.1,98,43,786/-, and the assessee has not filed his return of income, the A.O. reopened the assessment as per the provisions of Section 147 of the I.T. Act, 1961 after recording reasons. Accordingly, notice under section 142 (1) of the I.T. Act, 1961 was issued and served on the assessee. During the course of assessment

proceedings, the A.O. called for certain information under section 133(6) of the I.T. Act, 1961 from the National Stock Exchange and from the reply it was seen that assessee has purchased shares/ securities of Rs.8,26,76,730/- and made sales to the tune of Rs.8,37,42,955/- and thereby earned capital gain of Rs.10,66,225/-. In absence of any proper explanation given by the assessee, the A.O. made addition of the same to the total income of the assessee. Further, the A.O. made an addition of Rs.1 lakhs as capital investment for entering into such transaction. Thus, the A.O. determined the total income of the assessee at Rs.13,26,230/- after making further addition of Rs.1,60,000/- being the deemed income up to the exemption level.

5. In appeal, the Ld. CIT(A) did not accept the additional evidences filed by the assessee by relying on various decisions and upheld the addition made by the A.O.

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

7. I have heard the Ld. D.R. and perused the record. I find the Ld. CIT(A) while adjudicating all the grounds before him has elaborately discussed all the issues which read as under :

“4.1. Ground No.1 : The ground relates to reopening of assessment u/s 147. The Assessing Officer had information for A.Y. 2009-10 relating to the appellant having made investment in shares/securities to the tune of Rs.1,98,43,786/-. Since the assessee had not filed any return of income for A.Y. 2010-11, the Assessing Officer had recorded reasons properly and also taken administrative approval from the Principal Commissioner of Income Tax-21, New Delhi granted on 30.03.2017. Therefore, this ground of appeal is Dismissed.

4.2. Ground No. 2, 3 and 4 - Since these grounds of appeal are interlinked, these are being adjudicated together. On the merits, it is seen that the Assessing Officer had sought information u/s 133(6) of the IT Act from National Stock Exchange where it was seen that

the appellant had purchased shares/securities of Rs.8,26,76,730/- and made sale to the tune of Rs.8,37,42,955/- Thus, short term Capital gains of Rs.10,66,225/- arose. Also, an amount of Rs.1,00,000/- was added as capital investment. Since, the appellant has not been able to controvert the Assessing Officer's findings, the additions made by the Assessing Officer is sustained. This ground is therefore, Dismissed.

4.3. Ground No.5 - relates to initiation of penalty proceedings u/s 271(l)(c) which are consequential in nature and are independent and separate from assessment proceeding. Appeal does not lie against initiation of penalty proceedings. This ground of appeal being premature is Dismissed.

4.4. Ground No. 6 - is general in nature, do not require separate adjudication.

4.5. Ground No.7 - Since the appellant has neither added, deleted, modified or amended the ground of appeal, this ground is Dismissed as infructuous.

4.6. *In the result, the appeal is DISMISSED.*”

7.1. I do not find any infirmity in the order of the Ld. CIT(A). She has given a finding that the A.O. while reopening the case has recorded reasons properly and has taken administrative approval from the PCIT. Similarly, the addition of Rs.10,66,225/- was made on the basis of information obtained under section 133(6) from the National Stock Exchange and the addition of Rs.1 lakh was very reasonably made towards capital investment. I, therefore, do not find any infirmity in the order of the Ld. CIT(A) and upheld the same. The grounds raised by the assessee are accordingly dismissed.

8. In the result, appeal of the Assessee is dismissed.

Order pronounced in the open Court at the time of hearing itself i.e., on 29.11.2021.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

Delhi, Dated 29th November, 2021

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-1' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.