

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. K. NARASIMHA CHARY, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No. 3929/Del/2017  
(Assessment Year : 2013-14)

Amardeep Pramod Gupta & Associates, B-1/10, Hauz Khas, New Delhi-110 016  PAN No. APGPA 1158 Q <b>(APPELLANT)</b>	Vs.	ITO Ward – 1 Rohtak  <b>(RESPONDENT)</b>
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Assessee by	Shri R. K. Mehra, C.A.
Revenue by	Shri Ajay Kumar, Sr. D.R.

Date of hearing:	29.11.2021
Date of Pronouncement:	29.11.2021

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the assessee is directed against the order dated 11.04.2017 of the Commissioner of Income Tax (Appeals) – Rohtak, New Delhi relating to Assessment Year 2013-14.

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

3. Assessee is an individual who is stated to have filed his return of income for A.Y. 2013-14 on 01.04.2014 declaring total income of Rs.2,29,790/-. The case was selected for scrutiny through CASS on the ground that assessee had deposited cash aggregating to Rs.1,42,03,000/- in his saving bank account with Bank of Baroda. Notice u/s 143(2) and 142(1) issued and served upon the assessee. AO has noted that there was no compliance to the notices issued despite various opportunities granted by the AO. AO thereafter passed an order dated 04.03.2016 u/s. 144 of the Act by making addition of Rs.1,42,03,000/- and accordingly net income was determined at Rs.1,50,00,000/-. Aggrieved by the order of AO assessee carried the matter before CIT(A) who vide order dated 11.04.2017 in Appeal No. 311/2015-16 granted partial relief to the assessee. Aggrieved by the order of CIT(A) assessee is now before us and has raised the following grounds:

1. *“That on the facts and the circumstances of the case, the Ld. CIT(A) erred by not passing the speaking order in respect of issues related to sales proceeds (Turnover) amounting to Rs 18412795/-and gift received amounting to Rs 55,50,000/- from relatives. Moreover sufficient opportunity was not provided by the Ld. assessing officer to the donors in the remand proceedings. Hence, action of the below authorities were not fair and justified in law.*
2. *That the learned Assessing Officer and Ld CIT(A) have not considered the gross receipt/ turnover of Rs 18,41,295/- of the appellant for the F. Y. 2012-13 as part of entire cash deposit in the Bank Account. The appellant has disclosed*

*this amount in the Income Tax return under Computation of Income from Business or Profession u/s 44AD of the Income Tax Act, 1961. Hence the addition of amount of Rs 18,41,295/- as part of unexplained cash deposit is unjustified.*

3. *That the learned CIT(A) did not mention/ discussed in his order about the gift received by the appellant of Rs 55,50,000/-. The Donors personally appeared before the learned assessing officer for verification and submitted affidavits in remand proceeding but no opportunity was provided for submission of more documents, if required. It is humbly prayed that the issue may be disposed after providing fair opportunity to the appellant in accordance to the provisions of the law.*
4. *The appellant craves leave to add, alter or modify any of the grounds of appeal at the time of hearing.”*

4. Assessee has also filed an application under Rule 29 of the Appellate Tribunal Rules 1963 for permission seeking admission of additional evidences. With respect to the additional evidences, it is submitted that AO passed the order without giving sufficient opportunity to the Donors in remand proceedings and the donors who are agriculturist were not having the knowledge and legalities of Income Tax Proceedings and had only furnished affidavits without any additional evidences during remand proceedings. It is further submitted that additional evidences are necessary and essential and it goes to the root of the matter and therefore the additional evidences be taken on record. In support of the aforesaid contentions, assessee has also filed an affidavit. Learned AR therefore submitted that the additional evidences be admitted and one more opportunity be granted to the assessee to

present his case and gave an undertaking to appear before the lower authorities.

5. Learned DR on the other hand objected to the prayer of filing of additional evidences. He supported the order of lower authorities.

6. We have heard the rival submissions and perused the materials available on record. The issue in the present ground is with respect to the addition made on account of cash deposits made by the assessee. It is the submission of the assessee that assessee is an agriculturist and the cash was received from donors who are also agriculturist and in support of their claim of income of the donors to be from agricultural activities, Assessee has filed additional evidences before us. In view of the aforesaid facts and considering the affidavit filed by the assessee and the submissions of Learned AR, we direct the admission of additional evidences. Since these evidences were not before the lower authorities, we restore the issue back to the file of AO 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 to the assessee. **Thus the ground of assessee is allowed for statistical purposes.**

7. Since we have set aside the issue back to the file of AO, we are of the view that grounds on merit require no adjudication at present and therefore the other grounds are not adjudicated.

**8. In the result, appeal of the assessee is allowed.**

**Order pronounced in the open court on 29.11.2021, immediately after conclusion of the hearing of the matter in virtual mode.**

**Sd/-  
(K. NARASIMHA CHARY)  
JUDICIAL MEMBER**

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

Date:- 29.11.2021  
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**Copy forwarded to:**

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI