

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “SMC-3” BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 9503/DEL/2019**

**[Assessment Year: 2010-11**

Dhoop Singh, VPO Makroli Kalan, Distt. Rohtak (Haryana) PAN- DFQPS9015R	<u>Vs</u>	Income Tax Officer, Ward-1,Rohtak
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>		<b>Sh. Naveen Gupta, Adv.</b>
<b>Respondent by</b>		<b>Sh. Om Prakash, Sr. DR</b>
<b>Date of hearing</b>		<b>12.01.2022</b>
<b>Date of pronouncement</b>		<b>18.01.2022</b>

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), Rohtak, dated 30-09-2019, pertaining to the assessment year 2010-11. The assessee has raised following grounds of appeal:

- “1. That the order of the Ld. CIT(A) is against law and facts.
2. That the ld. CIT(A) erred in confirming the additions made by the Ld. AO although the notice issued u/s 148 of the Act to the appellant is invalid and without jurisdiction.

3. *That the ld. CIT(A) erred in confirming the assessment order, although the Ld. AO didn't provide a copy of reasons recorded u/s 148 to the appellant.*
4. *That the ld. CIT(A) erred in confirming the addition of Rs. 29,00,000/- made by the Ld. AO on account of cash deposit in the bank account of the appellant.*
5. *That the appellant craves leave to add, alter or withdraw any of the grounds of appeal at the time of hearing”*

2. Briefly stated facts are that the Assessing Officer has recorded that proceedings u/s 147 of the Income-tax Act, 1961, hereinafter referred to as “the Act” were initiated after recording reasons with the prior approval of the Principal Commissioner of Income-tax, Rohtak, on the ground that the assessee had made cash deposit of Rs. 58,00,000/- in his bank account with Allahabad Bank during the financial year 2009-10. In response to the notice u/s 148 of the Act the assessee filed return of income at Rs. 30/- under the head income from other sources and agricultural income of Rs. 32,000/-. The Assessing Officer, after considering the material on record made addition of Rs. 29,00,000/-.

3. Aggrieved against the order of Assessing Officer, the assessee preferred appeal before the learned CIT(Appeals), who after considering the submissions, dismissed the appeal and sustained the addition as made by the Assessing Officer.

4. Aggrieved against the order of learned CIT(Appeals), the assessee has preferred appeal before this Tribunal.

5. Learned counsel for the assessee submitted that the assessee was not supplied the reasons recorded by the Assessing Officer despite a specific request was made before the learned CIT(Appeals). He further submitted that the assessee was not given sufficient opportunity by the Assessing Authority and the learned CIT(Appeals) to explain its case. Learned counsel further submitted that the assessment was reopened on the basis of cash deposits of Rs. 58,00,000/-. Out of Rs. 58,00,000/- it was found that Rs. 29,00,000/- were deposited out of withdrawal made by the assessee on 29.03.2010 and same money was again deposited on the same day. He submitted that the money was received as advance against the sale of property but subsequently the money was returned back to the purchaser. Therefore, the authorities below grossly erred in taking this amount as income of the assessee. He further contended that in the interest of justice, matter may be restored to the Assessing Authority with the direction that the assessee be provided reasons recorded for reopening of the assessment.

6. On the contrary, learned DR opposed the submissions made on behalf of the assessee and supported the orders of authorities below.

7. I have heard rival contentions, perused the material on record and gone through the orders of authorities below. I find that the assessee specifically made a request before the learned CIT(Appeals) for providing copy of reasons recorded.

The learned CIT(Appeals) rejected the request of the assessee by observing as under:

*“As regards the issue of providing copy of reasons recorded to the assessee, the matter was examined from the assessment record and also discussed with the AO and it is seen that all the notices have been issued on the correct address of the assessee i.e. Sh. Dhoop Singh s/o Sh. Hari Singh, VPO MakrauliKalan, Rohtak. It is on this address only that the assessee is staying today also, this address has been mentioned in the bank records of the assessee in Allahabad Bank, in Form no. 35 of appeal and he has attended the assessment and appellate proceedings after receiving notices sent on this address. Thus the AO has rightly issued notices on the correct given address of the assessee and complied with due procedure as per law before proceeding in the mater and passing the assessment order. Nowhere during the assessment proceedings did the assessee ask for copy of reasons and it was therefore not given to him. In fact the assessment record shows that the assessee filed his return of income in response to notice u/s 148 on 22.11.2017 which shows that he was fully aware of the re-assessment proceedings and it is not a case where order has been passed without giving proper opportunity and considering his reply in the matter.*

*In view of the above discussion of facts of the case and judicial decisions on this issue, the addition of Rs. 29 lacs made by the AO is hereby confirmed.”*

8. The law mandates that the Assessing Officer should supply reasons for reopening of the assessment to the assessee. Thereafter, the assessee would file its objections. But in the present case the requirement of law is not met by the authorities below. They have decided the issue casually and proceeded to make addition without giving sufficient opportunity to the assessee to make its representation. I, therefore, in the interest of principles of natural justice and to sub-serve the substantial justice, set aside the impugned order and restore the

assessment to the file of the Assessing Officer. The Assessing Officer would supply reasons recorded for reopening of the assessment and thereafter the assessee, if he so advised, may file his objections and the Assessing officer after receipt of such objections, would dispose of the same by way of a speaking order. Grounds raised in this appeal are allowed for statistical purposes.

9. Appeal of the assessee is allowed for statistical purposes.

Sd/-  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

\*Madan Pal Verma\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

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