

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

**BEFORE SH. A.D. JAIN, VICE PRESIDENT  
AND  
SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
(THROUGH VIDEO CONFERENCING)**

ITA No.3834/Del/2018  
Assessment Year: 2009-10

<b>Shri Ajay Kumar Maurya, 184, Sector-10A, Vasundhara Ghaziabad PAN No.ASDPM2303F (APPELLANT)</b>	<b>Vs</b>	<b>DCIT Circle-1 Ghaziabad  (RESPONDENT)</b>
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Appellant by	Sh. Ankit Gupta, Advocate
Respondent by	Ms. Alka Gautam, Sr. DR

Date of hearing:	15/03/2022
Date of Pronouncement:	15/03/2022

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal filed by the assessee is preferred against the order of the CIT(A), Ghaziabad dated 28.02.2018 pertaining to A.Y.2009-10.

2. Ground No.1, 2 and 3 challenge the validity of the assessment by assumption of jurisdiction u/s. 148/147 of the Act. Ground No.4 relates to the rejection of the additional evidences by the CIT(A). Ground No.5, 6 and 7 are on the merits of the additions.

3. Representatives of both the sides were heard at length. Case records carefully perused.

4. At the very outset the counsel for the assessee stated that he is not pressing ground 1, 2 and 3, therefore, the same are dismissed as not pressed.

5. Coming to the merits of the addition the counsel for the assessee vehemently stated that the addition of Rs.917650/- was made by the AO by rejecting the evidences in summary manner. It is the say of the Counsel that those evidences alongwith other evidences were furnished before the CIT(A) but the CIT(A) declined to entertain the additional evidences.

6. On the addition of Rs.388570/-the counsel stated that the same has been made on account of difference in the income shown in form No.26AS and the income shown by the assessee in his return of income. It is the say of the counsel that the difference arose because certain income did not accrue to the assessee during the year under consideration.

7. The counsel prayed for another opportunity so that the assessee can file necessary documentary evidences.

8. Per contra the DR strongly supported the orders of the authorities below.

9. Having heard the rival contentions we are of the considered view that documentary evidences should not have been rejected by the CIT(A) on technical grounds. Therefore, in the cause of justice we restore the entire quarrel to the files of the AO. The assessee is directed to furnish necessary documentary evidences relating to the long term capital gain. The assessee is further directed to reconcile the difference of income in his return viz-a-

viz Form N.26 AS. The AO is directed to examine the same and decide the issue afresh after affording reasonable opportunity of being heard to the assessee.

10. In the result, the appeal filed by the assessee is allowed in part for statistical purposes.

11. The order is pronounced in the open court on 15.03.2022 in the presence of both the parties.

Sd/-  
**(A.D. JAIN)**  
**VICE PRESIDENT**

\*NEHA\*

Date:- 15.03.2022

Copy forwarded to:

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

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	15.03.2022
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	