

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "एस.एम.सी" , चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCHES, "SMC" CHANDIGARH**

**श्री एन.के.सैनी, उपाध्यक्ष**

**BEFORE: SHRI. N.K.SAINI, VICE PRESIDENT**

आयकर अपील सं./ ITA No. 367/Chd/2021

निर्धारण वर्ष / Assessment Year : 2017-18

Shri Rajesh Mohan Main Road Opp. Post Office, VPO- Lambra, Distt: Jalandhar- Punjab-144001	बनाम	The DCIT International Taxation, Circle-1, Chandigarh-160017
स्थायी लेखा सं./PAN NO: AHTPM5150D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None (Written Submission)

राजस्व की ओर से/ Revenue by : Dr. Ranjeet Kaur, Sr. DR

सुनवाई की तारीख/Date of Hearing : 10/03/2022

उद्घोषणा की तारीख/Date of Pronouncement : 10/03/2022

**आदेश/Order**

**PER N.K. SAINI, VICE PRESIDENT**

This is an appeal by the Assessee against the order dt. 23/09/2021 of the Ld. CIT(A)-43, New Delhi.

2. Following grounds have been raised in this appeal.

1. That the Ld. CIT(A) has passed the appellate order disregarding the request of the appellant for adjournment furnished on 28/08/2021 and 06/10/2021 for 30 days and consequently has erred in confirming the addition of Rs. 11,11,500/- made by the AO.

2. That Ld. CIT(A) has erred in confirming the addition of Rs. 11,11,500/- which has been made by Ld. AO without properly appreciating the explanation furnished by the assessee to explain the source of cash deposits of Rs. 11,11,500/- during the demonetization period and therefore, addition of Rs. 11,11,500/- as unexplained income is not justified in law and on the facts and circumstances of the case.

3. That Ld. CIT(A) has erred in confirming the addition of Rs. 11,11,500/- without appreciating that Ld. AO has made the addition of Rs. 11,11,500/- without considering the CBDT public notice dated 18.11.2016 and subsequent guidelines whereby no investigation is required in case of deposit of Rs. 2,50,000/- which could have been out of past savings. Therefore, addition of Rs. 11,11,500/- as unexplained income made without considering the aforesaid CBDT public notice

*and guidelines issued from time to time is bad in law on the facts and circumstances of the case.*

*4. That the appellant craves leave to amend, alter or add to the above grounds of appeal, before the appeal is heard or disposed off.*

3. The main grievance of the assessee relates to the confirmation of addition made by the A.O. by the Ld. CIT(A) by passing the impugned order *ex parte* when the assessee asked for adjournment.

4. During the course of hearing nobody was present on behalf of the assessee, however written submission has been furnished which is placed on record.

5. Facts of the case in brief are that the assessee e-filed his return of income on 03/06/2017 declaring an income of Rs. 7,26,756/-, later on, the case was selected for scrutiny. The A.O. made the addition of Rs. 11,11,500/- by observing that the assessee deposited huge cash in the bank account during the demonetization period but the sources were neither explained nor such money was offered for taxation. He therefore held that the amount deposited in the bank account represented income of the assessee from undisclosed sources.

6. Being aggrieved the assessee carried the matter to the Ld. CIT(A) who passed the impugned order *ex parte*. He mentioned in para 4 of the impugned order that no written submission was submitted during the appellate proceeding. On the contrary in para 5.5 he mentioned as under:

*"5.5 The explanation offered by the appellant in the course of appellate proceedings have been considered. The details have been found to be lacking in substance as Appellant could not furnish any evidence in the course of assessment proceedings and Appellate proceedings. Therefore the explanation offered by the appellant is found to be unacceptable and rejected."*

The aforesaid observation of the Ld. CIT(A) is contradictory because he has passed the impugned order *ex parte* and on the one hand he stated that no written submission was furnished by the assessee, on the other hand it has been

stated that the explanation offered by the assessee in the course of appellate proceeding has been considered.

7. I therefore deem it appropriate to remand this case back to the file of the Ld. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order pronounced in the open Court on 10/03/2022 )

**Sd/-**  
**एन.के.सैनी,**  
**( N.K. SAINI)**  
**उपाध्यक्ष / VICE PRESIDENT**

**AG**

**Date: 10/03/2022**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File