

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No. 4791/Del/2018  
(for Assessment Year : 2015-16)

Sanjeev Gupta B-70, Sector -27, Noida  PAN No. ADYPG 8000 D <b>(APPELLANT)</b>	Vs.	DCIT Central Circle Noida  <b>(RESPONDENT)</b>
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Assessee by	--None--
Revenue by	Shri H. K. Chaudhary, CIT(DR)

Date of hearing:	05.05.2022
Date of Pronouncement:	05.05.2022

**ORDER**

**PER ANIL CHATURVEDI, AM :**

This appeal filed by the assessee is directed against the order dated 22.03.2018 of the Commissioner of Income Tax (Appeals)-IV, Kanpur relating to Assessment Year 2015-16.

2. Brief facts of the case as culled out from the material on record are as under:-

3. Assessee is an individual stated to be running a proprietorship firm in the name of M/s. Exl Estate which is engaged in the business of Real Estate as Commission Agent and

assessee is also stated to be partner of M/s. San VIN Tech which is engaged in the similar business. AO has noted that a search and seizure operation u/s 132 of the Act was conducted on 11.11.2014 on the premises of the assessee comprising Tirupati-Sunworld Group of Companies (TSGC). Consequently, a notice u/s 142(1) of the Act was issued and in response to which assessee electronically filed the return of income on 28.08.2015 showing income of Rs.4,50,77,030/-. Thereafter, assessment was framed u/s 143(3) of the Act vide order dated 31.12.2016 and the total income was determined at Rs.5,10,44,400/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 22.03.2018 in Appeal No.CIT(A)-IV/11355/DCIT-CC-Noida/KNP/2016-17/788 dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now in appeal and has raised the following grounds:

1. *“That on the facts and circumstances of the case and in the law, the CIT(A) has grossly erred in confirming the Assessment Order which was without proper assumption of jurisdiction.*
  - 1.1 *That on the facts and circumstances of the case and in the law the Assessment order u/s 143(3) as framed by the AO is bad in law, inter alia, on account of non-service of sec 143(2) notice as per the law.*
2. *That on the facts and circumstances of the case and in the law, the CIT(A) has erred in confirming addition of Rs.41,00,000/- on account of unexplained investment in cash.*
3. *That on the facts and circumstances of the case and in the Law, the CIT(A) has erred in confirming addition of Rs.18,67,370/- on account of unexplained investment in jewellery.*

*That the appellant craves leave to add to and/or Amend, modify or withdraw the grounds outlined above before or at the time of hearing of the appeal.”*

4. The case file of the appeal reveals that assessee had filed appeal before Tribunal in 2018 and the matter was first time listed for hearing on 08.09.2021. None appeared on behalf of assessee and therefore the matter was adjourned to 22.11.2021 for which the notice for hearing was also issued. On 22.11.2021, none appeared on behalf of assessee nor any adjournment application was filed. The matter was therefore adjourned to 10.02.2022 and the Registry was directed to issue notice through RPAD and directions were also issued to the Departmental Representative (DR) to serve the notice. On 10.02.2022, none appeared on behalf of assessee and therefore the matter was adjourned to 05.05.2022. The case file reveals that pursuant to the directions of the Bench dated 22.11.2021, an Inspector was deputed by ACIT, Central Circle (2), Noida to serve the notice for hearing which was fixed on 10.02.2022. The Inspector has given a report that assessee was not traceable at the aforesaid address and therefore the notice of hearing was affixed at the address mentioned in the notice. We further find that notice of hearing for 05.05.2022 was sent through Registered post at the address mentioned by the assessee in Form 36 but the same was returned back by the Postal Authority with remarks 'Left'. Mere filing of the appeal by the assessee before the Tribunal would not be sufficient. It is incumbent upon the assessee to attend the proceedings as and when so fixed. However, in the present case, the facts narrated hereinabove shows the callous approach of the assessee towards the present appeal filed by him. In such a

situation, we proceed to dispose of the appeal *ex parte qua* the assessee and after hearing the Learned DR.

5. AO vide Para 5 of the assessment order has noted that during the course of search at F-22, Model Town, New Delhi, cash amounting to Rs.42,24,000/- was found and out of which Rs.41,00,000/- was seized. The assessee was asked to explain the source of cash. AO noted that assessee could not offer any explanation with the necessary evidences. AO therefore held the cash of Rs.41,00,000/- to be of the assessee and accordingly made addition of Rs.41,00,000/-.

6. AO vide Para 6 of the order has noted that during the course of search, Jewellery amounting to Rs.18,67,370/- was found. The assessee was asked to explain the source of Jewellery found. AO has noted that assessee could not offer any explanation with the evidences. He accordingly held that the Jewellery to be belonging to the assessee and accordingly made addition of Rs.18,67,370/-.

7. Aggrieved by the order of AO, assessee carried the matter before CIT(A). CIT(A) noted that before him it was stated that the unexplained cash belonged to Sunworld Developers Pvt. Ltd. He noted that no documentary evidences was furnished by the assessee to demonstrate that the cash belonged to Sunworld Developers Pvt. Ltd. He has further given a finding at Para 6.3 of his order that no cash book/ledger/bank book of M/s. Sunworld Developers Pvt. Ltd. was produced to explain the possession of

cash with assessee. He accordingly confirmed the addition of Rs.41,00,000/- made by AO.

8. With respect to the addition on account of Jewellery of Rs.18,67,370/-, CIT(A) while upholding the addition has given a finding that assessee could not explain the source of purchase of Jewellery. He has further noted that no bills for purchase of Jewellery was produced by the assessee before the search party or before the AO to demonstrate that the jewellery belonged to Ms. Sapna Jain. He has further given a finding that neither the assessee or her spouse were filing Wealth Tax Returns to explain the possession of Jewellery. He accordingly confirmed the addition made by AO.

9. Aggrieved by the order of CIT(A), assessee is now before us.

10. Before us, Learned DR pointed to the findings of CIT(A) and AO and submitted that no evidence has been furnished by the assessee before any of the authorities including the Tribunal to demonstrate that the cash and Jewellery did not belong to the assessee. He thus supported the order of lower authorities.

11. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the addition to cash and Jewellery found during the course of search. We find that the AO while making the addition had noted that assessee could not offer any explanation

in support of his contention that the cash and Jewellery did not belong to the assessee. We further find that CIT(A) while upholding the addition has also given a finding that no material has been placed by the assessee to demonstrate that the cash did not belong to assessee. He has further noted that assessee did not produce cash book/ledger/bank book of M/s. Sunworld Developers Pvt. Ltd. to demonstrate that the cash found with the assessee belonged to Sunworld Developers Pvt. Ltd. With respect to the Jewellery found during the course of search, CIT(A) has given a finding that no bills for purchase of Jewellery was produced by the assessee before search party or the AO and further assessee was not filing any wealth tax return to explain the possession of Jewellery. Before us, no material has been placed by assessee to point any fallacy in the findings of CIT(A). In such a situation, we find no reason to interfere in the order of CIT(A). **Thus the grounds of assessee are dismissed.**

**12. In the result, appeal of the assessee is dismissed.**

**Order pronounced in the open court on 05.05.2022**

**Sd/-  
(YOGESH KUMAR US)  
JUDICIAL MEMBER**

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

Date:- 05.05.2022

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**Copy forwarded to:**

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI