

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

**SHRI SANJAY GARG, JUDICIAL MEMBER**

**ITA Nos.4185 & 4186/Del/2019**  
**Assessment Years : 2008-09 & 2011-12**

Manmeet Singh, B-1, Hathi Khana, Azad Market, Delhi-1100006	vs	ITO, Ward-63(1), Room No.2101, E-2 Block, Civic Centre, New Delhi-110002
<b>PAN-AQPPS6593D</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	NONE
<b>Respondent by</b>	Sh. Sanjay Kumar, Sr. DR
<b>Date of Hearing</b>	22.06.2022
<b>Date of Pronouncement</b>	22.06.2022

**ORDER**

These appeals have been preferred by the assessee against the order dated 29.03.2019 of the Ld. Commissioner of Income Tax (Appeals)-38, New Delhi [hereinafter referred to as 'CIT(A)'] pertaining to Assessment Years-2008-09 & 2011-12.

2. No one has put in appearance on behalf of the assessee despite notices issued. I find from the record that even on earlier occasions, notices were also issued to the assessee but none has appeared on behalf of the assessee. In view of this, I proceeded to decide the appeals on merit after hearing the Ld. DR and after going through the record.

3. The assessee in this appeal has taken following grounds of appeal:-

**Grounds of ITA No.4185/Del/2019**

“1. It is contended that the Ld. CIT(A) has erred in confirming the addition of Rs.20,21,000/- for unexplained cash deposits in the bank account u/s 68 of the IT Act, 1961.

2. It is contended that the Ld. CIT(A) has erred in making an addition to business income amounting to Rs.52,360/-.

3. It is contended that the ex-parte assessment framed by the AO u/s 144 vide order dated 26/12/2017 is wrong and bad in law as the assessee was hospitalized from 06/12/2017 to 18/12/2017 and was on complete bed rest post urologic surgery and it became impossible for him to comply before the AO.

4. It is contended that the CIT(A) did not confront the assessee with the remand report from the AO and give him an opportunity to be heard which is against the principle of natural justice.”

4. The dispute involved in this appeal is relating to the addition made by the Assessing Officer ( in short ‘the AO’) on account of cash deposits in the bank account of the assessee. A perusal of the assessment order reveals that the same is an ex-parte order passed by the AO u/s 144 r.w.s. 143(3) of the Income Tax Act.

5. A perusal of the impugned order of the Ld. CIT(A) reveals that the assessee before the Ld. CIT(A) has pleaded that he could not appear before the AO due to severe illness. Further, a perusal of the order of the Ld. CIT(A) reveals that the assessee sought to furnish additional evidence before the Ld. CIT(A) to prove the source of the deposits, whereupon, the Ld. CIT(A) had called upon the remand report from the AO. The AO, however, in the remand report, instead of giving his comment on merits

relating to the evidence furnished by the assessee, opposed the admission of additional evidences. The Ld. CIT(A), considering the aforesaid remand report, declined to admit the additional evidences and confirmed the addition.

6. I find that the aforesaid act of the Ld. CIT(A) is not as per requirement of law. The assessee has furnished additional evidence before the Ld. CIT(A) and the Ld. CIT(A) had called upon remand report from the AO. The AO was supposed to examine the evidences filed by the assessee and give his report on merits of this case. Calling upon of the remand report, itself means that the additional evidences were admitted by the Ld. CIT(A) and the opportunity was given to the AO to examine the same. In this case, both the lower authorities have failed to exercise the jurisdiction vested in them to consider the necessary facts and evidences for the purpose of proper adjudication of the matter. In view of the above observations, the impugned order of the Ld. CIT(A) is set-aside and the matter is restored back to the file of the AO with a direction to give proper opportunity of hearing to the assessee to explain his case and then to decide the issue on merits by way of a speaking order.

7. In the result, the appeal filed by the assessee is treated as allowed for statistical purpose.

**ITA No.4186/Del/2019**

8. Since, the facts and the issues involved in this appeal for the AY 2011-12 are identical to the facts of the case in ITA No.4185/Del/2019, AY

2008-09, hence my finding given in appeal for AY 2008-09 will apply mutatis mutandis to this appeal also and accordingly this appeal is also restored back to the file of the AO to adjudicate the issue afresh.

9. In the result, both appeals filed by the assessee are treated as allowed for statistical purpose.

Order pronounced in the open Court on 22.06.2022.

**Sd/-**  
**(SANJAY GARG)**  
**JUDICIAL MEMBER**

**Delhi;**

Dated: 22/06/2022.

*Shekhar*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI