

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.1578/Del/2020
[Assessment Year : 2011-12]**

Pankaj Sharma, C-745, FF, Sushant Lok, Gurgaon, Haryana-122002. PAN-BWBPS2150R	vs	ITO, Ward-3(2), Gurgaon.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	11.08.2022	
Date of Pronouncement	18.08.2022	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2011-12 is directed against the order of Ld. CIT(A)-2, Gurgaon dated 12.03.2020.

2. The assessee has raised following ground of appeal:-

1. *“That the order of the Ld Commissioner of Income Tax Appeals)-2 , Gurugram as well as the order of Income Tax Officer, Ward-3(2), Gurugram is against Law and Facts.*
2. *That the Ld Commissioner of Income Tax (Appeals)-2, Gurugram as well as Income Tax Officer Ward-3(2), Gurugram has erred in confirming an addition of Rs.886000/- by stating that as per cash flow statement, there is a peak cash deposit of Rs.886000/- during the year. Where as it is fact that most of the cash deposit in the bank is on account of cash receipts/ sale proceeds of supply of domestic items as well as all the receipts of taxi income.*
3. *That the Ld Commissioner of Income Tax (Appeals)-2, Gurugram as well as Income Tax Officer Ward-3(2), Gurugram has erred in not considering written submission, along with the copy of Income and Expenditure account of Domestic items. Copy of Taxi income account*

and complete bank statement with narration and copy of detailed cash flow statement submitted at appellant stage, in which all transaction made with bank has duly been accounted for.

4. *That the Ld Commissioner of Income Tax (Appeals)-2, Gurugram has erred in confirming an addition of Rs. 886000/- by stating that it is quite justified that this peak cash deposit amount of Rs.886000/- may be considered as income of assessee from un-explained sources and be considered for the taxation since the assessee is not having income from any business except plying light vehicle. Whereas it is fact that previously the assessee was in service with home store up to 31.03.2010 after that he has left the service and started a business for (supply of domestic item i.e. kiriyana goods and cosmetic items and general merchant items at the door step of the customers. All cash has been deposited in bank as per cash flow submitted at the time of appellant stage.*
5. *The appellant craves to add or amend any ground of appeal before the appeal is dispose off.”*

3. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that vide order sheet entry dated 20.06.2022, the assessee was directed to remove the defect. It was noticed by the Tribunal that the Registry has recorded the defects regarding appeal fee being short by Rs.1140/- and appeal fee not filed in minor head of Rs.330/-. Hence, the present appeal is defective for want of payment of proper Court fee, the assessee has not removed the defect despite having been given the opportunity.

FACTS OF THE CASE

4. Facts giving rise to the present appeal are that the Assessing Officer [“AO”] had received information regarding cash deposited by the assessee

amounting to Rs.21,04,600/-. Therefore, the case of the assessee was re-opened u/s 147 of the Income Tax Act, 1961 [“the Act”]. A notice u/s 148 of the Act was issued to the assessee after obtaining the requisite approval from the Department. In response to the notice issued u/s 148 of the Act, no compliance was made on behalf of the assessee. In the absence of any representation on behalf of the assessee, the AO proceeded to make addition of Rs.21,04,600/- on account of cash deposited in the bank account of the assessee and further addition of Rs.33,606/- was made in respect of the amount received which TDS was deducted and was not disclosed by the assessee.

5. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions and evidences placed by him, partly allowed the appeal of the assessee. Thereby, Ld.CIT(A) confirmed the peak credit of Rs.8,86,000/- during the year under consideration.

6. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

7. I have heard the contention of Ld. Sr.DR and perused the material available on record and gone through the orders of the authorities below. I find that the present appeal is defective for want of payment of proper Court fee and the assessee has not removed the defect despite having given ample opportunities. I therefore, dismiss the appeal in limine on account of appeal being defective. However, it is clarified that if the assessee makes good of the short payment of Court fee, he may make appropriate application in this regard

for restoration of this appeal. The grounds raised by the assessee in this appeal are dismissed.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 18th August, 2022.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI