

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.1107/Del/2020  
[Assessment Year : 2011-12]**

Vineet Bhardwaj, H.No.540, Sec-19, Faridabad. <b>PAN-AHAPB0740K</b>	vs	ITO, Ward-2(5), Faridabad.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	None	
<b>Respondent by</b>	Shri Om Parkash, Sr.DR	
<b>Date of Hearing</b>	11.08.2022	
<b>Date of Pronouncement</b>	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), Faridabad dated 29.01.2020.

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

1. *"Because the learned Commissioner of Income Tax (Appeals) erred in law as well as on facts while confirming the addition of Rs 15,15,500/- as unexplained Cash deposit as made by the Assessing Officer.*

2. *Because, the following observations of the learned CIT (Appeals) in the order are per verse, arbitrary, baseless and misleading :*

*(a) " However, nothing has been furnished to substantiate their creditworthiness. It has been stated in the affidavits that such persons were agriculturists. However no particulars of their land holding and extent of agricultural income earned by them was made available. In the circumstances, the creditworthiness of the persons from whom the appellant to*

*explain the source and nature of cash deposits in bank account with satisfactory evidence." ( Page 17-line 6 to line 14).*

*(b) "Thus, it is noted the AO considered these facts and after application of mind came to belief that income chargeable to tax has escaped assessment. Thus it is noted that there was live link between the information received by the AO and belief made that income chargeable to tax has escaped assessment."(Page 19 Para 11).*

3. *Because, the learned CIT(Appeals) has erred in overlooking and in summarily rejecting the detailed statement of facts submitted along with memorandum of Appeal, various documents and evidence placed in the paper book filed and detailed submissions filed while accepting the lopsided and factually incorrect version of the learned Assessing officer.*
4. *Because, the learned lower authorities have erred and acted arbitrarily neither taking on record the affidavits filed by the agriculturist who gave cash of Rs 1550500/- during the course of assessment nor discussing in the assessment order, treating the entire amount as unexplained income without any enquiry, as such assessment is to be annulled and declared void.*
5. *Because, the learned CIT is erred in facts in holding that nature and source of Cash deposit of Rs 15,50,000/- is not explained despite complete detailed submission was filed before him.*
6. *The assessee craves leave to add/alter any of the grounds of appeal before or at the time of hearing."*

3. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the record that since 28.04.2021, various opportunities were provided to the assessee but the assessee failed to make

any representation before this Tribunal. Hence, the appeal of the assessee is taken up for hearing in the absence of the assessee.

4. The only effective ground in this appeal is against the sustaining of addition of Rs.15,15,500/- as unexplained cash deposit.

#### **FACTS OF THE CASE**

5. Facts giving rise to the present appeal are that the Assessing Officer ["AO"] was imposition of information regarding deposits of cash by the assessee amounting to Rs.15,15,500/-. However, as per the return of income filed on 19.03.2012, the assessee had declared an income of Rs.2,17,110/-. The AO as of the view that the cash deposited into the bank account does not commensurate the income declared by the assessee for the year under consideration. Thus, the case of the assessee as re-opened u/s 148 of the Income tax Act, 1961 ["the Act"] and a notice was issued to the assessee. In response thereto, the Ld. Authorized representative of the assessee attended the proceedings. The AO noticed that in response to the show cause notice dated 05.12.2018, there was no representation on behalf of the assessee. Therefore, he proceeded to make addition of Rs.15,15,500/- as unexplained income of the assessee.

5. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A) who after considering the submissions, dismissed the appeal of the assessee.

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

7. Ld. Sr. DR appearing on behalf of the Revenue, opposed the grounds of appeal and supported the orders of the authorities below. He submitted that assessee grossly failed to explain the source of cash deposited in his bank account.

8. 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. The AO in this case made addition on the basis that the assessee failed to give any supporting evidence regarding receipt of loan from relatives. However, the Ld.CIT(A) has recorded the factum of filing of affidavits by the assessee. It is transpired from the record that the authorities below did not conduct any inquiry to verify the veracity of the contents of the affidavits filed by the assessee. Therefore, looking to the totality of the facts, I set aside the impugned order and restore the assessment to the file of AO to make assessment afresh after conducting the requisite inquiry regarding veracity of the contents of affidavits filed before Ld.CIT(A). The grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 18<sup>th</sup> August, 2022.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**