

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'H' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.1710/Del./2020
(ASSESSMENT YEAR : 2011-12)**

Vishal Tyagi,
S-48, C – Block,
Shalimar Garden Extension 11, Sahibabad,
Ghaziabad – 201 005.

vs. DCIT, Central Circle,
Ghaziabad.

(PAN : AHRPT7851N)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Shri Kailash Dan Ratnoo, CIT DR

Date of Hearing : 19.12.2022

Date of Order : 21.12.2022

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the order of the Id.
CIT (Appeals)-IV, Kanpur dated 16.10.2019 for the assessment year
2011-12.

2. The grounds of appeal taken by the assessee read as under :-

“1. That after having regard to the facts & circumstances of the case, the Id. CIT (A) has erred in law and on facts was not deleting the additions of Rs.2,22,950/- for the A.Y. 2011-12, Rs. 2,86,839/- for the AY. 2012-13, Rs.6,71,000/- for the A.Y. 2013-14, Rs. 6,52,770 for the AY. 2014-15, Rs.3,09,860/- for the A.Y. 2015-16, Rs. 4,32,210/- for the AY. 2017-18.

2. That in any view of the matter & in any case, the action of Ld. CIT (A) is not reversing the action of Ld. AO in making impugned addition of Rs.2,22,950/- for the AY. 2011-12, Rs.2,86,839/- for the AY 2012-13, Rs.6,71,000/- for the A.Y.2013-14, Rs. 6,52,770 for the AY. 2014-15, Rs.3,09,860/- for the A.Y. 2015-16 and Rs.4,32,210/- for the AY. 2017-18 is bad in law & against the facts & circumstances of the case.

3. That the order passed by the Ld. CIT (A) U/s without providing proper opportunity to the assessee against the natural justice.

4. That the order passed by Ld. CIT (A) against the facts and circumstances of the case.

5. That the addition was confirmed by the Ld. CIT (A) without considering the facts & circumstance of the case of the assessee.

6. That having regard to facts & circumstances of the case, Ld. CIT (A) has erred in law & on facts in confirming the action of the Ld. AO was not providing proper opportunity to the assessee at the times of hearing against the provision of Income Tax Act, 1961.”

3. At the outset, we note that there is written submissions from the assessee. As per the submissions, it has been stated that ITAT vide order in the same assessee’s case against the same common order of ld. CIT (A) for AYs 2012-13 to 2017-18 has remanded the matter to the file of AO. It has been prayed that since the same orders are common, the same may be followed.

4. We have heard ld. DR for the Revenue. Ld. DR did not have any objection in this regard. Upon careful consideration, we note that the ITAT vide order dated 03.11.2022 against the same common order by the ld. CIT (A) for AYs 2012-13 to 2017-18 has remanded the matter by observing as under :-

“ On careful consideration, we note that addition in this case has been made under Section 153A of the IT Act, pursuant to search and seizure activity. We note that Assessing Officer has not discussed the incriminating material found during the search on the basis of which assessment under Section 153A has been done. Furthermore, assessee’s plea before the Id. CIT(A) was that the assessee explained the source of deposit and the Assessing Officer never confronted the assessee with his queries or further clarification. Further, the assessee’s plea that addition under Section 68 cannot be done on the basis entries in bank statement alone has also not been addressed. Hence, in the interest of justice, we remit the issue to the file of the Assessing Officer. The Assessing Officer is directed to consider the issue afresh and decide the appeals after giving the assessee effective and proper opportunity of being heard. The Assessing Officer shall bear in mind the submissions before the CIT(A) and our observations herein above. Hence, the appeal of the assessee is allowed for statistical purpose. Our above direction applies mutatis mutandis to all the appeals as above.”

5. Thus, we find that since there is common order of Id. CIT (A) above, adjudication as above also applies for AY 2011-12. Hence, we direct the AO to consider the issue in the light of our observations herein above.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 21st day of December, 2022.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 21ST day of December, 2022
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-IV, Kanpur.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.