

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 9329/DEL/2019
[Assessment Year: 2011-12]

Suresh Kumar Saini, M/s S.K. Associates, RZ-673/1, Gali No. 27, Shad Nagar, Palam Colony, Delhi-110045. PAN- ABAPS1612D	<u>Vs</u>	Income Tax Officer, Ward-62(3), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Sh. S.L. Anuragi, Sr. DR	
Date of hearing	02.01.2023	
Date of pronouncement	09.01.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-20, New Delhi, dated 30.09.2019, pertaining to the assessment year 2011-12. The assessee has raised following grounds of appeal:

“1. That on the facts and in the circumstances of the case, the order passed by the Ld. CIT(A) is bad, both in the eye of law and on the facts.

2. That on the facts and circumstances of the case, CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the assessment order passed by the Assessing Officer is bad and liable to be quashed as the same has been initiated on the basis of the reasons which are vague and has been recorded without application of mind on the part of the Assessing Officer.

3. That the Ld. Assessing Authority has claimed that the Assessee has deposited Rs.9,81,000.00 in his saving account during the AY 2011-12. The cash deposit was actually the cash withdrawn by the assessee from his own bank accounts.

4. That on the facts and circumstances of the case, the CIT(A) has erred both on facts and in law and without giving an opportunity of being heard. The appellant requested for the production of additional grounds of appeal, but Ld. CIT(A) did not consider the verbal plea made by the appellant and thus passed the order by confirming the addition made by the Assessing Authority.

5. The appellant craves leave to add, amend or alter any of the grounds stated herein above, either before or at the time of hearing of appeal.”

2. At the time of hearing no one attended the proceedings. It is seen from the record that no one has been attending the proceedings since 13.09.2022. The case was adjourned from time to time and was fixed for hearing on 02.01.2023. However, neither any one attended the proceedings nor any request for adjournment has been made on behalf of the assessee. Therefore, the appeal was taken up for hearing in the absence of the assessee and is being decided after hearing the learned DR and on the basis of material available on record.

3. Facts giving rise to the present appeal are that case of the assessee was reopened for assessment u/s 147 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) on the basis that the assessee had deposited cash amounting to Rs. 9,81,000/- in its savings bank account maintained with oriental Bank of Commerce. Before the Assessing Officer there was no representation on behalf of the assessee. Therefore, the order was passed ex parte to the assessee and the amount so deposited was added to the income of the assessee u/s 69A of the Act. Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals), who also sustained the addition. Aggrieved, the assessee is in appeal before this Tribunal.

4. Learned Sr. DR supported the orders of the authorities below and submitted that the assessee could not explain the source of cash deposited in the bank account of the assessee.

5. From the record it is seen that there is a certificate issued by the income-tax Officer, Ward 62(1), New Delhi to state that the assessee had opted for Vivad Se Vishwas Scheme, 2020 but the request was rejected by the Department. Looking to the facts available on record and in view of the fact that there was no proper and effective representation on behalf of the assessee before the authorities below, keeping in view the principles of natural justice, I hereby set aside the impugned order and restore the issue to the file of the Assessing Officer to make assessment

afresh after giving reasonable opportunity of being heard to the assessee. In case assessee's request regarding acceptance for Vivad Se Vishwas Scheme is accepted by the higher authorities the Assessing Officer would decide the issue accordingly. Grounds raised in appeal are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 9th January, 2023.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**