

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.4262/DEL/2019
Assessment Year: 2011-12**

Rattan Singh C/o RRA Taxindia D-28, South Extn. Part-1, New Delhi PAN No.BKQPS5379R	Vs	ITO Ward- 05 Karnal
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Somil Aggarwal, Advocate
Respondent by	Sh. Vivek Vardhan, SR DR

Date of hearing:	30/01/2023
Date of Pronouncement:	30/01/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A), Karnal dated 12.04.2019 pertaining to A.Y.2011-12.

2. The grievance of the assessee read as under :-

1. *That the assumption of jurisdiction in passing the impugned assessment order u/s 143(3)/263, is bad in law and against the facts and circumstances of the case.*

2. *That having regard to the facts and circumstances of the*

case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in sustaining the addition of Rs.38,93,875/- on account of cash deposits by treating it as alleged unexplained cash credits u/s 68 and that too by recording incorrect facts and findings and without appreciating the submissions and evidences filed by the assessee and in violation of principles of natural justice.

3. *That in any case and in the view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in sustaining the addition of Rs.38,93,875/- on account of cash deposits u/s 68, is bad in law and against the facts and circumstances of the case.*

4. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234A and 234B of Income Tax Act, 1961.*

5. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.*

3. At the very outset the Counsel for the assessee stated that the impugned assessment order is pursuant to the order dated 31.01.2014 framed by the PCIT, Karnal u/s. 263 of the Act. It is the say of the Counsel that that order of the PCIT was set aside by the Tribunal in ITA No.1373/Del/2016, therefore, the very basis has been removed making all subsequent orders non est.

4. The DR fairly conceded to this.

5. We have carefully perused the orders of the authorities below. It is true that the assessment order dated 30.11.2016 is framed u/s. 143 (3) r.w.s. 263 of the Act. It is equally true that this Tribunal in ITA No.1373/Del/2016 order dated 22.12.2022 has set aside the order of the PCIT the relevant findings read as under :-

“9. The findings of ld Revisional Authority cannot be sustained as the enquiry in to the relevant issues is duly reflected in the assessment proceedings and only because the ld. Pr. CIT being a higher authority and more wiser in experience considered that enquiry in some other aspects would have resulted in different opinion, does not give jurisdiction to exercise revisional power u/s. 263. That being so the grounds raised are allowed and the impugned order of the revisional authority is set side. The appeal is allowed.”

6. Since the foundation has been removed the super structure must fall.

7. In the result, the appeal of the assessee is accordingly allowed.

8. Decision announced in the open court on 30.01.2023.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

NEHA

Date:- .01.2023

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER