

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.7348/Del/2019
[Assessment Year : 2011-12]**

Deepak Kumar, C/o-R S Chauhan & Co., A-1/59, LGF, Freedom Fighter Enclave, IGNOU Road, Neb Sarai, New Delhi-110070. PAN-AAGPK5795A	vs	ITO, Ward-33(5), New Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Sanjay Nargas, Sr.DR	
Date of Hearing	15.02.2023	
Date of Pronouncement	16.03.2023	

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)-11, New Delhi dated 28.06.2019. The assessee has raised following grounds of appeal:-

- a) *“For that the order passed by the Ld Commissioner of Income Tax (Appeals) -11, upholding the addition of the Assessing Officer Ward 33(5), Delhi to the tune of Rs 5,47,664/- + Rs 50000/- is per incuriam.*
- b) *For that under the facts and circumstances under consideration the Ld. Commissioner of Income Tax (Appeals) - 11 has failed to appreciate the evidence and submissions produced before himself.*
- c) *For that under the conspectus of facts and circumstances surrounding the case the addition confirmed by Ld Commissioner of Income Tax (Appeals) - 11 is not justified and is liable to be deleted.*
- d) *The appellant craves leave to press new, additional grounds of appeal or modify or withdraw any of the above grounds at the, time of hearing of the appeal.”*

2. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that no one has been attending the proceedings since 02.09.2021. The notices of hearing are duly served upon the assessee as the acknowledgements of notices of hearing are duly on record. It is also seen that Power of Attorney cum Authority letter dated 28.09.2019 in favour of the Shri R.S.Chauhan & Shri Vaibhav Chaudhary, CAs is placed on record. However, neither any one has been attending the proceedings nor any request for adjournment is filed on behalf of the assessee. Under these facts, the appeal is taken up for hearing in the absence of the assessee and is being disposed off on the basis of material available on record.

3. The only effective ground in this appeal is against the additions of Rs.5,47,664/- and Rs.50,000/-.

4. Facts giving rise to the present appeal are that the original return was filed, declaring total income at Rs.5,60,720/-. The case of the assessee was re-opened on the basis of cash deposited in the bank account. In response to the notice issued u/s 148 of the Income Tax Act, 1961 ("the Act"), Ld. Authorized Representative ("AR") of the assessee attended the assessment proceedings. The Assessing Officer ("AO") after considering the material placed before him, made various additions, out of expenses and unexplained deposit of cash etc.

5. Aggrieved against the order of AO, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, partly allowed the appeal of the assessee.

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

7. Apropos to Grounds of appeal, Ld. Sr. DR supported the orders of the authorities below.

8. I have heard Ld. Sr. DR and perused the material available on record. I find that Ld.CIT(A) qua impugned additions, has given finding on facts as under:-

5.5. *“Ground no. 6 pertains to addition on account of notional rent. During the course of appellate proceedings, appellant has stated that AO has not explained the basis of notional rent neither any detail of property and rate & period for which the notional rent has been calculated and therefore, addition on notional is baseless. During the course of assessment proceedings, AO noted that property of appellant was not let out for a part of the year. However, as there was no documentary evidence to support the claim, AO determined the notional rent at Rs.11,13,431/- and accordingly, made an addition of Rs.4,04,096/- on account of notional rent. From perusal of the facts of the case, it is seen that appellant has not submitted any evidence as to what was the, rental income actually received by him along with the details of properties and the rent receipt on them. Therefore, onus cast on the appellant -has not been discharged. Further, even during appellate proceedings no 'detail has been submitted, therefore, I find no basis to interfere in the order of AO. Accordingly, ground no. 6 is dismissed.*

5.6 *Ground no. 3 and 7 pertain to disallowance @20% of expenses amounting to Rs.41,568/- and ground no. 8 pertains to disallowance of Rs.1,00,000/- out of salary expenses. All these grounds are taken up together. During the course of assessment proceedings, AO, noted that assessee had claimed expenditure of Rs.2,07,838/-. However, as there was no evidence to substantiate the claim, he disallowed 20% of the expenses amounting to Rs.41568/-. During the course of appellate proceedings, appellant has submitted that all the expenses have been paid through banking channel and they have been incurred for the purpose of appellant's business. I have carefully considered the observations of AO and submissions of appellant. It is 'seen that AO*

has made disallowance of Rs.41,568/- on account of expenses. AO in the assessment order has observed that assessee has not given any detail of commission income from various services. Further, it is observed that there was contradiction in the reply submitted before AO. On the one hand, assessee vide letter dated 21.12.2018 stated that source of cash deposited in bank account was rent amount collected in cash, commission income from business activity and sale of agricultural income whereas on the other hand assessee in, hie letter dated 26.12.2018 stated that the source of cash deposited in bank was commission income and income from property consulting. Further, it is noted that assessee has not submitted any detail including, the income, address and contract details along with confirmation from whom commission was received during the year. On careful consideration of the fact of the case, it is seen that appellant has nothing to substantiate his claim of expenditure as nothing has been submitted even during appellate proceedings. Further, it is also noted that appellant has increased the expenditure on account of salary and wages from Rs.2,15,510/- in the original return to Rs.3,15,510/- in the return in response to notice u/s 148 for which no justification has been given. Appellant has also not submitted any evidence regarding the claim of expenditure on account of salary and wages either during assessment proceedings or during appellate proceedings. Therefore, I find no basis to interfere in the order of AO. Accordingly, ground no.3, 7 & 8 are dismissed.

5.7 Ground no. 9 pertains to addition of Rs 50,000 claimed as deduction u/s 80U. During the course of appellate proceedings, appellant has submitted that he has a certificate available at present which he can submit before AO. On consideration of the facts, AO is directed to allow the claim of appellant after verification of the correctness of appellant's claim and its genuineness. Accordingly, ground no. 9 is' allowed subject to the aforesaid observation.

5.8 Ground no. 10 pertains to charging interest U/s 2348 & U/s 234C of the Act and hence consequential.”

9. The assessee has not brought any material on record in support of grounds of appeal and to rebut the findings of Ld.CIT(A). Therefore, I do not see any reason to interfere in the findings of Ld.CIT(A), the same is hereby affirmed. Thus, grounds raised by the assessee in this appeal are dismissed.

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

Order pronounced in the open Court on 16th March, 2023.

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