

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

ITA No. 2976/Del/2022 : Asstt. Year: 2012-13

Manveer Singh, 151, Vill.-Mahmoodpur Ristal, Ghaziabad, U.P.-201003 (APPELLANT)	Vs	Income Tax Officer, Ward-1(4), Ghaziabad (RESPONDENT)
PAN No. BZBPS7379P		

Assessee by : None

Revenue by : Sh. Om Parkash, Sr. DR

Date of Hearing: 17.05.2023

Date of Pronouncement: 20.06.2023

ORDER

The present appeal has been filed by assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 26.10.2022.

2. Following grounds have been raised by the assessee:

"1. That the Learned Commissioner of Income Tax (Appeals) ['Ld. CIT(A)'] erred on facts and in law in not appreciating that the initiation of reassessment proceedings without having any valid reasons to believe and any fresh tangible reliable material, is without jurisdiction and consequently, the re-assessment order dated 30 November 2019 ('impugned order') was illegal and bad in law.

2. That on the facts and in the circumstances of the case and in law impugned order passed by Learned Assessing Officer ('Ld. AO') is illegal and bad in law since relevant reassessment proceedings have been initiated merely on the basis of AIR information and without any independent application of mind by the Ld. AO.

2.1. *That on the facts and in the circumstances of the case and in law, the re-assessment proceedings are illegal and bad in law since the same have been initiated on surmises, conjectures and suspicion without any tangible evidence.*

2.2. *In the facts and circumstances of the case, the Ld. AO has erred in relying only on the information of the Annual Information Report without making independent enquiries and framing the best judgment assessment without verifying the complete bank account of the Appellant.*

3. *That on the facts and in the circumstances of the case, Ld. CIT (A) has erred in not holding that impugned order as void ab-initio on the ground that the same was concluded without any service of jurisdictional notice u/s 148 of the Income Tax Act, 1961 ('the Act').*

4. *That on the facts and in the circumstances of the case and in law, the impugned assessment order needs to be set-aside as the satisfaction recorded by the Pr. CIT is mechanical and without judicious application of mind.*

5. *That on the facts and circumstances of the case, the reassessment proceedings is without jurisdiction, illegal and bad in law in as much as the - copy of complete reasons (alongwith details/ material/ annexures referred therein) were not provided to the appellant.*

6. *That the orders passed by the Ld. CIT(A) and Ld. AO are against the principle of natural justice.*

Merits - Without Prejudice

7. *That the addition of Rs. 10,90,380 made under Section 69 of the Act to the income of the Appellant is not tenable under the facts of the case since the same has been made in gross ignorance of the fact that the source of cash deposited in the bank account were either from the withdrawals made from the relevant*

bank account or receipts generated during the course of agricultural business.

8. That on the facts and in the circumstances of the case and in law, the addition of Rs. 10,90,380/- in the hands of the Appellant is unwarranted in law since the entire cash deposited with the bank account cannot be treated as income of the Appellant and only a gross margin earned from the Appellant's business can be treated as income of the Appellant.

9. That the addition of Rs. 10,90,380/- made under Section 69 of the Act to the income of the Appellant is not tenable under the law because additions are made in gross ignorance and in violation of real income theory of taxation which states that no income could be earned without incurring expenses for the same.

10. That on the facts and in the circumstances of the case and in law, the Ld. AO erred in making the addition upon ex-parte material, in gross violation of principles of natural justice."

3. The AO made addition of Rs.10,90,380/- on the alleged cash deposits based on AIR information even without obtaining the bank statement and keeping in it on record. The revenue authorities are expected at least to obtain the bank statement before issue of notice u/s 148 of the Income Tax Act, 1961 and completion of the assessment proceedings u/s 144 of the Act. Since, the revenue could not bring anything on record with regard to the alleged deposits (bank statement) the tenets of "Best judge assessment" are grossly flouted. The addition made by the AO is hereby deleted.

4. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 20/06/2023.

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Dated:20/06/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR