

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "DB" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

**आ.अ.सं./I.T.A No.18/DDN/2019**

**निर्धारणवर्ष/Assessment Year:2009-10**

Jai Prakash Sharma 433/21, Lane No.3, Ganga Nagar, Rishikesh, Uttarakhand.	<b>बनाम Vs.</b>	ACIT Circle-2, Dehradun.
<b>PAN No. AGOPS9437M</b>		
<b>अपीलार्थी Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

<b>Assessee by</b>	<b>None</b>
<b>Revenue by</b>	<b>Shri Parmod Verma, Sr. DR</b>

सुनवाईकीतारीख/ Date of hearing:	22.08.2023
उद्घोषणाकीतारीख/ Pronouncement on	25.08.2023

**आदेश /O R D E R**

**PER C.N. PRASAD, J.M.**

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), Dehradun dated 12.03.2019 for the AY 2009-10. The assessee has raised the following grounds: -

1. "That the order of Learned Commissioner of Income Tax (Appeals) is bad in law as well as on the facts and in the circumstances of the case.

2. *That the Ld.CIT(A) has erred in not deciding the following grounds of appeal before him:*

*“Because reason to believe is not disclosed in the notice issued under section 148 of the Act on dated 29.03.2016 and thereafter when appellant asked the reason to believe then no speaking order was passed by the Ld.AO but during the assessment proceeding the Ld.AO is double mind. Once he opted the figures shown in the notice issued later on stage after asking the reason to believe.”*

3. *That the Ld.CIT(A) has erred in sustaining the addition of Rs.8,78,187/- out of the addition of Rs.11,28,187/- made by the Assessing Officer.*

4. *The above grounds of appeal are without prejudice to each other.”*

2. In spite of issue of several notices, none appeared on behalf of the assessee. Therefore, we proceed to dispose of the appeal on hearing the Ld. DR.

3. We have perused the grounds of appeal of the assessee and the order of the Ld.CIT(A). It is the contention of the assessee that the ground raised challenging the reopening of the assessment has not been disposed of by the Ld.CIT(A). We noticed from the order of the Ld.CIT(A) that the assessee in ground no. 2 of grounds of appeal raised issue of non-supply of reasons for reopening assessment. This ground was not at all adjudicated by the Ld.CIT(A). We also find that the Ld.CIT(A) has passed a very cryptic order on merits. Therefore, in the interest of justice, we restore

this appeal to the file of the Ld.CIT(A) we shall decide all the grounds raised by the assessee including the challenging of reopening of assessment u/s 148 of the Act. The grounds on merits are also restored to the file of the Ld.CIT(A) as the decision on reopening of assessment as bearing on the grounds on merits. Thus, we restore all the grounds in this appeal to the file of the CIT(A) who shall decide the same in accordance with law after providing adequate opportunity of being heard.

4. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 25.08.2023

Sd/-  
(M BALAGANESH)  
ACCOUNTANT MEMBER

Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER

Dated: 25.08.2023

*\*Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT  
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi