

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : DELHI

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.1775/Del/2023
Assessment Year: 2010-11

Rajan Chawla,
Flat No.G-1, Block B-6,
Ramprastha Colony,
Chander Nagar,
Ghaziabad (UP) – 201011.

Vs ITO,
Ward-2(2),
Ghaziabad.

PAN: AHNPC6239K

(Appellant)

(Respondent)

Assessee by	:	Shri Rajan Chawla, Assessee
Revenue by	:	Shri Om Parkash, Sr. DR
Date of Hearing	:	05.09.2023
Date of Pronouncement	:	05.09.2023

ORDER

This appeal by the assessee pertaining to Assessment Year 2010-11 is filed against the order of the Id.CIT(A), National Faceless Appeal Centre, Delhi, dated 10.04.2023. The assessee has raised the following grounds of appeal:-

"The order passed by the learned Assessing Officer is bad in fact and in law and against the facts and circumstances of the case.

1. *The learned AO has erred in facts and circumstances of the case in initiating the proceeding u/s 147/148 of the Act. No notice under section 148 was served within the period specified in the section 148 of the Act and the assessment is barred by the limitation.*

2. *The learned AO has erred on facts and circumstances of the case in adding an amount of Rs. 16,24,900/- on account of cash deposit into bank*

as undisclosed income u/s 69A of the Act without any justification as the deposit is out of genuine source.

The Appellant craves permission to add, alter, amend, delete, all or any ground of the appeal on or before or at any time of hearing."

2. The facts, in brief, are that in this case, the AO received information regarding deposit of cash amounting to Rs.16,24,900/- in the bank account of the assessee held with Punjab National Bank during the financial year 2009-10. The case of the assessee was reopened u/s 147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'). In response to the notices issued by the AO, there was no compliance. Therefore, the AO made addition of the entire cash deposited in the bank account and assessed income at Rs.16,24,900/- *ex parte qua* the assessee. Aggrieved against this, the assessee preferred appeal before the CIT(A). Before the Id. CIT(A) also, there was no representation on behalf of the assessee. Therefore, the appeal of the assessee was dismissed. Now, the assessee is in appeal before this Tribunal.

3. At the outset, the assessee, who appeared in person, stated that notices of hearing were not received by the assessee. He contended that he would cooperate in the assessment proceedings and file the requisite details as called for by the assessing authority, if given an opportunity.

4. On the other hand, the Id. DR opposed the submissions of the assessee and supported the assessment order. He contended that the assessee should not be given the benefit of his own negligence.

5. I have heard the rival contentions and perused the material available on record. There is no dispute with regard to the fact that both the authorities below have passed the orders *ex parte qua* the assessee. It is the contention of the assessee that the assessee had not received the notices of hearing. Therefore, looking to the facts available on record and also in view of the principles of natural justice, I deem it proper to set aside the impugned order and restore the assessment to the file of the assessing authority for making the assessment afresh. The grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 05.09.2023.

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

Dated: 05th September, 2023.

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Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi