

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1127/Del/2020
(Assessment Year: 2010-11)**

Gulshan Grover, H. No. 64, Block-18, Geeta Colony, East Delhi, New Delhi (Appellant) PAN:AGBPG4348N	Vs.	ITO, Ward-59(4), New Delhi (Respondent)
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Assessee by :	Shri Manpreet Singh, CA Shri R. S. Rathore, Adv
Revenue by:	Shri Vivek Kumar Upadhyay, Sr. DR
Date of Hearing	15/02/2024
Date of pronouncement	24/04/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1127/Del/2020 for AY 2010-11, arises out of the order of the Id. Commissioner of Income Tax (Appeals)-23, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 23/10187/18-19 dated 20.01.2020 against the order of assessment passed u/s 147 r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 21.12.2017 by the Assessing Officer, ITO, Ward-59(4), New Delhi (hereinafter referred to as 'Id. AO').

2. The assessee has raised revised grounds of appeal before us:-

"1. *The CIT(A) has erred in law and facts by confirming the order of AO passed u/s 147/148, which is bad in law and not as per the Income Tax Act, 1961.*

2. *The CIT(A) has erred in law by confirming the, assumption of jurisdiction by AO u/s 147, which is not as per the provision of Income Tax Act.*
3. *The CIT(A) has erred in law by confirming the order of AO, whereas the notice u/s 147 is not served as per the provision of Income Tax Act which is bad in law and not as per the provision of Income Tax Act.*
4. *The CIT(A) has erred in law by confirming the order of AO, where an opportunity of hearing is not provided by AO, which is bad in law and not as per the provision of Income Tax Act.*
5. *The CIT(A) has erred in law by upholding the addition made by AO of Rs.84,82,075/- without considering the facts, detail, documents and sources of such cash deposits, which is bad in law and liable to be deleted.*
6. *The CIT(A) has erred in law by upholding the order of AO without considering the expenditure required to incur for earning cash/revenue of during the F.Y., which is bad in law and not as per the Income Tax Act, 1961.*
7. *The CIT(A) has erred in law by upholding the order of AO without considering the principle of peak high principal adopted by Honb. Courts to compute the income of Assessee, which is bad in law and not as per the Income Tax Act, 1961.*
8. *The CIT(A) has erred in law by not considering disclosure made by Assessee under Income Disclosure Scheme 2016 with respect to income earned from the said bank account, which is bad in law and liable to be deleted.*
9. *The Appellant craves leave to add, alter, amend or forgo any of the above or other grounds of appeal at time of hearing which is bad in law and not as per The Income Tax Act, 1961."*

3. Though the assessee has raised several grounds before us, the only effective issue to be decided on merits is as to whether a sum of ₹84,84,075/- could be added as income in the hands of the assessee towards unexplained cash deposit in the bank account.

4. We have heard the rival submissions and perused the material available on record. The assessee is engaged in the business of repair of electronic goods, such as FM radio, FM player, DVD player, DTH and miscellaneous Chinese goods which gets damaged during transit from China to India with some of the traders of Chinese goods in Lajpat Rai Market, Chandni Chowk, Delhi. The assessee is a regular income tax assessee and had filed his return of income for AY 2010-11 under the PAN

AGBPG4348N. The assessee was maintaining saving bank account with ICICI Bank during the period under consideration. While filing the return, the trading transactions reflected in the said ICICI bank was not considered by the assessee. Hence, the assessee disclosed the net effect of the trading transactions of ICICI Bank in Income Declaration Scheme, 2016 on 30.09.2016 and paid due taxes thereon. This declaration made in IDS, 2016 was duly accepted by the department. Based on the information received by the Id AO regarding savings bank account maintained by the assessee in ICICI Bank, the assessment of the assessee were sought to be reopened for AY 2010-11 by issuance of notice u/s 148 of the Act on 29.03.2017 on the ground that there was cash deposit made in the bank account by the assessee. This information was admittedly received by the Id AO as part of intimation for non-filing of Income Tax Return for AY 2010-11 through NMS cycle **for PAN AEFPG5786G**. The assessee did not cooperate with the Id AO by furnishing the details by explaining the source for cash deposits made in the sum of ₹84,84,075/- in ICICI Bank Account, which compelled the Id AO to make the addition of ₹84,84,075/- as unexplained cash deposit while completing the reassessment proceedings u/s 144 read with section 147 of the Act on 21.12.2017. The Id CIT(A) gave relief of ₹2,04,750/- being the income declared by the assessee under IDS, 2016 by way of telescoping benefit and sustained the remaining addition of ₹82,79,325/-. Before us, the Id AR filed the workings of peak credit in the said undisclosed bank account on the premise that there was huge cash withdrawals made from the very same undisclosed bank account and cash deposit made thereon and in that scenario, only peak credit thereon should be brought to tax. We are in complete agreement with this argument of the Id. AR. However, the peak credit working requires factual verification by the Id AO. Hence, we deem it fit and appropriate to restore this issue to the file of the Id AO for verification of the peak credit workings and bring to tax only the peak credit as undisclosed income of the assessee. The assessee is also directed to cooperate with the Id AO by explaining the peak credit workings. Accordingly, the Ground Nos. 5 to 8 raised by the assessee are allowed for statistical purposes.

5. It is a fact that assessee has got 2 PAN cards i.e. AGBPG4348N and AEFPG5786G wherein his name and his father's name duly match. Hence all the allegations leveled by the assessee and the Id AR before us with regard to the wrong framing of assessment and illegal assumption of jurisdiction by the Id AO are completely irrelevant when there is mistake on the part of the assessee itself to hold two PAN cards, which is illegal. Accordingly, the revised Ground Nos. 1 to 4 are hereby dismissed.

6. Ground No. 9 is general in nature and does not require any specific adjudication.

7. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 24/04/2024.

-Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 24/04/2024

A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi