

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No. 9177/DEL/2019
[Assessment Year: 2011-12]**

Manish Malik, Flat no. B-221, Dabas CGHS Ltd., Plot no. 6C, Dwarka, Sector-23, New Delhi-110075. PAN- AJYPM 9837 C	<u>Vs</u>	DCIT, Circle-27(1), New Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Diwakar Singh, Sr. DR	
Date of hearing	20.08.2024	
Date of pronouncement	11.09.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-15, Delhi, dated 03.10.2019, pertaining to the assessment year 2011-12. The assessee has raised following grounds of appeal:

“This appeal is being filed against the order passed by CIT(Appeal) u/s 250 of Income Tax Act, 1961

The order of CIT (Appeals) was passed and appeal was partly allowed.

The CIT(Appeals) has not considered the documents and information submitted by AR and without considering the actual fact of the case passed an impugned order and affirm the addition made by AO.

The CIT(A) relied on the fact that the assessee failed to explain the source of cash deposit and the credit entries in the bank account. However, CIT(A) accepted the contention of the appellant partially and granted some relief. CIT(A), during the hearing, totally ignored the submission made and the argument put up and made decision on his own motion. The AR of the appellant attended all the hearing and submitted all the required documents as and when required by CIT(A). on the other hand, the CIT(A) didn't even mention, in its impugned order, the contention of the assessee and submission made, in this regard.”

2. Briefly states facts are that the Assessing Officer received AIR information regarding deposit of cash amounting to Rs. 10,00,000/- by the assessee in his bank account with Karnataka Bank Ltd. during F.Y. 2010-11. It was noticed by the assessing Officer that the assessee had declared NIL income. Thereafter the case was taken up for reopening of the assessment and the AO issued notice u/s 148 of the Income-tax Act, 1961 (the “Act”). In response thereto, the AO received a letter from the assessee dated 24.02.2013 stating therein that the income-tax return filed on 5.2.2011 may be treated to have been filed in response to the notice u/s 148 of the Act. Thereafter, a notice u/s 143(2) was issued. In response to the notice learned authorized Representative of the assessee appeared and case was discussed with him and thereafter the AO rejecting the explanation offered by the assessee made addition of Rs. 10,00,000/- . Further, the AO made addition of credit entries appearing on different dates throughout the financial year totaling to Rs. 1,15,39,144/-. Aggrieved against this assessee preferred appeal before learned CIT(Appeals) who after considering submissions and explanation by the assessee partly allowed the appeal. Thereby the learned CIT(A) sustained the addition of

Rs. 1,15,16,924/-. Aggrieved against this the assessee is in appeal before this Tribunal.

3. At the time of hearing, no one attended the proceedings. It is seen from the record that previously also on different dates there was no representation on behalf of the assessee. Notice of hearing had been served on the assessee as is evident from the fact that on few occasions the Authorized Representative of the assessee attended the proceedings. It is seen that power of attorney has also been placed on record by the learned Authorized Representative of the assessee. Therefore, it is not the case of non-service of notice of hearing. The assessee was well aware about the hearing of the appeal and has consciously chosen not to appear before the Tribunal. Under these facts we are left with no option but to decide the appeal ex parte qua the assessee, on the basis of material available on record.

4. Apropos to the grounds of appeal, learned DR submitted that the learned CIT(A) has duly considered the explanation of the assessee and was found unacceptable. Learned CIT(A) has given a well reasoned finding and calls for no interference.

5. We have heard learned DR and perused the material available on record. We find that learned CIT(A) has given finding on facts in para 4.4 of the impugned order. Same is extracted herein below:

“4.4 The contentions of the AR have been considered and the order of the AO has also been perused. It is seen that during the remand and verification proceedings, the appellant has been non co-operative. Even in the remand report dated 21.12.2017, the AO has categorically submitted that the assessee as well as his authorized representative were communicated many a times via telephone to submit the correspondence details of Reena Gupta, Sunita Sharma and Sunny Grover from whom amount of Rs. 38,00,000/- on 29.03.2010, Rs. 18,00,000/- and Rs. 6,50,000/- respectively, but no compliance was made till the submission of the report. Similarly the source

of Rs. 10,00,000/- and other credit entries also remain unexplained. E.g. an amount of Rs. 24,20,000/- is shown to have receipt from one, Sh. Mahinder Pal Verma on 06.04.2010. However, the source of this amount is not explained as to where from this amount was advanced to him. There is an interest credit of Rs. 18,862/- in the bank account, however the same is not shown separately in the computation of income and therefore remains unaccounted for. The source of another amount like Rs, 4,80,000/- shown to have received from Chanchal Sahai also remained unexplained. There is no attempt by the appellant to explain the sources of credits from these persons within the meaning and provisions of section 68.

From the various entries found in the bank statement of the assessee, it is seen that the assessee was in receipt of gross rent of Rs. 12,39,300/- from a let out property during the year under consideration, which was also found reflected in form no. 26AS of the appellant. This rental income has also been shown separately by the assessee in his computation of income, under the head income from house property. Out of this, after deduction of TDS, the net amount found credited in the bank statement was Rs. 10,22,220/-. Therefore, out of the total credits found in the bank statement, the assessee is entitled for the relief of Rs. 10,22,220/-. The AO is directed to reduce this amount from the total addition of Rs. 1,25,39,144/- made by the AO. The assessee gets part relief on this account. The balance addition of Rs. 1,15,16,924/- is hereby confirmed.”

5.1 From the above finding of learned CIT(A) it is clear that he had examined the explanation offered by the assessee and came to the conclusion that out of the total credit found in the bank statement assessee was entitled for relief of Rs. 10,22,220/-. As per the synopsis submitted by the assessee it is contended that assessee is engaged in the business of real estate agent and has been doing this for many years. He is stated to have income from real estate consultancy and income from house property. The case before Learned CIT(A) was that there were cash withdrawals and deposits by the assessee but the assessee has not filed any supporting evidence in the form of bank statement etc. Therefore, we do not find

any reason to interfere in the finding of learned CIT(A). Same is hereby affirmed.
Grounds of appeal are rejected.

6. Appeal of the assessee is dismissed.

Order pronounced in open court on 11th September, 2024.

Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI