

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'G': NEW DELHI)**

**BEFORE SHRI S RIFAUZ RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 3044/Del/2022
(Assessment Year- 2018-19)**

Sanjeev Mittal, A-5, Rajkamal Enclave, Delhi Road, Meerut-250103, U.P.	Vs.	ACIT (Central Circle), Meerut.
PAN No: ADGPM7583F		
APPELLANT		RESPONDENT

Assessee by : None
Revenue by : Shri Dharm Veer Singh, CIT(DR)

Date of Hearing : 27.08.2024
Date of Pronouncement : 22.10.2024

ORDER

PER SUDHIR PAREEK, JM

This appeal is preferred by the Assessee against the order dated 18.05.2022 passed by the Learned Commissioner of Income Tax (Appeal) (hereinafter referred to as 'Ld. CIT(A)')/, Kanpur-4, for the Assessment Year ('AY') 2018-19.

1.1 The assessee has raised the following grounds of appeal:

“1. Loose Papers were not provided to appellant due to which appellant was unable to reply to Learned Assessing Officer:

That on the facts and in the circumstances of the case, it is hereby submitted that irrespective of various reminders to Learned Assessing officer on 23/12/2019, 31/05/2022 and 22/09/2022, set of loose papers were not provided to the appellant due to which it was unable for appellant to reply to Assessing Officer.

Therefore it is wrong in deciding the appeal without allowing reasonable, adequate and effective opportunity of hearing by the Learned Commissioner of Income Tax (Appeals) and Learned Assessing Officer.

2. Wrong addition made on account of Unexplained Money:

That on the facts and in the circumstances of the case, the Learned Commissioner of Income Tax (Appeals) and Learned Assessing Officer is wrong and unjustified in confirming Rs 25,04,90,000 as unexplained money under section 69A. The additions were made without taking submissions on record and not providing an opportunity to submit additional details as the set of loose papers were not provided to the appellant.

However appellant has stated in his reply filed on 25/07/2018 that the said the said cash seized doesn't belongs to him and was recovered from premises named as C-1 which was rented to Shri Praveen Maheshwari.

3. Wrong addition made on account of Unexplained Expenditure

That on the facts and in the circumstances of the case, the Learned Commissioner of Income Tax (Appeals) and Learned Assessing Officer is wrong and unjustified in confirming Rs 1,46,50,000 on account for unexplained expenditure under section 69 A.

Appellant was forged by an individual who has taken some amount from appellant on account for processing fees for sanctioning of a loan, but the said individual was a fraud and was not returning amount taken from the appellant even after many reminders.

Therefore appellant has drafted a complaint application to SHO Thana Partapur on his office computer with much more excessive

amount as taken by that person with an intension that it might create a pressure on the individual and he might return back the said amount, but the amount was never returned and on the basis of this soft copy complaint letter only, addition of such excessive amount was added back by Learned Assessing officer and confirmed by Learned Commissioner of Income Tax (Appeals) without allowing reasonable, adequate and effective opportunity of hearing which is bad in law.

4. Wrong Addition made on account for Household and Personal Expenditure of the family

That on the facts and in the circumstances of the case, the Learned Commissioner of Income Tax (Appeals) and Learned Assessing Officer is wrong and unjustified in confirming and adding Rs 30,00,000 on account for unexplained expenditure under section 69 Yearly Credit Card and electricity bills were added as monthly expenses and added back to income by Learned Assessing Officer and later confirmed by Learned Commissioner of Income Tax (Appeals).

The said addition were made without taking submissions on record and not providing an opportunity to submit additional details as the set of loose papers were not provided to the appellant and due to which appellant was unable to recognize tags assigned to various set of loose papers.

5. Wrong Addition made on account for Unexplained Investment:

That on the facts and in the circumstances of the case, the Learned Commissioner of Income Tax (Appeals) and Learned Assessing Officer is wrong and unjustified in confirming and adding Rs 13,00,422 on account for unexplained investment under section 69. Payments made or received on account for business transactions were treated as loan entries and addition were made without taking submissions on record and not providing an opportunity to submit additional details which is bad in law

6. Wrong Addition made on account for Undisclosed Money:

That on the facts and in the circumstances of the case, the Learned Commissioner of Income Tax (Appeals) and Learned Assessing Officer is wrong and unjustified in confirming and adding Rs 35,00,00,000 on account for undisclosed money under section 69 A, However it was intimated to the investigation unit by the appellant vide reply dated 25/07/2018 that in order to get peace of mind of his family members, the appellant has

accepted the said amount, but the same was ignored by Learned Assessing order and confirmed by Learned Commissioner of Income Tax (Appeals) addition were made without taking submissions on record and not providing an opportunity to submit additional details which is bad in law.

7. That the Learned Assessing Officer mentioned in the Assessment Order that notice u/s 153A(1)(a) was issued and served on the assessee, As per law notice u/s 153A(1)(a) is not issued in the year of search and seizure, however it is mentioned in the assessment order which is bad in law.

8. That the appellant craves leave, to add, alter, adduce or amend any ground or grounds on or before the date of hearing of the appeal.”

2. At the outset, when the matter was called for hearing on 27.08.2024, none appeared on behalf of the assessee. Neither there was any adjournment sought.

3. Brief facts of the case are that the search and seizure operation u/s 132 of the Act was conducted on 29.12.2017 at the residential premise C-1, Rajkamal Enclave, Delhi Road, Meerut on discovery of old Demonetized Currency of Rs. 25,00,00,000/- by Meerut Police. The search operation was further carried out on 06.12.2018 at A-20, Rajkamal Enclave, Meerut (residence) and at Kiran Building Office premise, Rajkamal Arcade, Meerut (Main Office). Notice u/s 153A of IT Act was issued but no return was

filed in compliance to the same. Later on, notices u/s 143(2) and 142(1) of the Act along with questionnaire were also issued and AO completed the assessment by assessing the income at Rs. 61,99,91,782/- u/s 144 of IT Act.

4. We have heard the Learned Senior Departmental Representative (Ld. Sr. DR) and carefully perused the material available on record.

5. Upon considering the submissions of the Ld. Sr. DR and reviewing the facts of the case, we note that the assessee has raised the contentions about the denial of reasonable, adequate and effective opportunity of being heard before the Ld. CIT(A) and the AO and also assessee has submitted that *“irrespective of various reminders of Ld. AO on 23.12.2019, 31.05.2022 and 22.09.2022, set of loose papers were not provided to the appellant due to which it was unable for the assessee to reply to Assessing Officer.”*

6. From the bare perusal of impugned order dated 18.05.2022, the Ld. CIT(A) dismissed the appeal of assessee for want of prosecution only by simply incorporate the order of the Ld. AO, instead of disposed off the grounds raised before him on merits. It

is submitted by the assessee / appellant that while making alleged addition, the Ld. AO didn't cared about the submissions on record and also not provided effective and meaningful opportunity to submit additional details.

7. So, looking to the overall facts and circumstances and in the interest of justice, we are inclined to adjudicate the appeal on its merits. However, we find it appropriate to restore the matter to the file of the Ld. Assessing Officer for fresh adjudication. The Ld. AO is directed to provide the necessary documents, which is necessary and relevant to decide the matter, to the assessee and afford a reasonable, adequate, and effective opportunity of being heard, as proper verification is required with respect of the additions made.

8. In the light of the above, we set aside the order of the Learned CIT(A) and remand the matter back to the AO with the direction to decide the matter afresh after giving proper, effective and reasonable opportunity of being heard and so, the appeal of the assessee is deserves to be allowed.

9. Consequently, appeal of the assessee is allowed as indicated above for statistical purpose.

Order pronounced in the Open Court on 22.10.2024

Sd/-
(S RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 22/10/2024.
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	16.10.24 (direct)
Date on which the typed draft is placed before the dictating Member	17/10/24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	