

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C': NEW DELHI  
BEFORE  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
ITA No. 2366/Del/2018, (A.Y.2008-09)**

Israr Ahmed House No. 6655, Gali Kothi Mem Bara Hindu Rao, Sadar Bazar, New Delhi <b>PAN No: AAFPA0141H</b>	Vs.	ITO Ward-63(2), Civic Centre, New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Shri Neeraj Jain, CA & Sh. P. K. Mishara, Adv
Respondent by	Shri Om Prakash, Sr. DR

Date of Hearing	23/10/2024
Date of Pronouncement	07/11/2024

**ORDER**

**PER YOGESH KUMAR U.S., JM :**

This appeal is filed by the Assessee against the order of Ld. Ld. Commissioner of Income Tax (Appeals)-20, New Delhi ["Ld. CIT(A)" for short], dated 29/01/2018 for the Assessment Year 2008-09.

2. The grounds of Appeal are as under: -

*"1. That learned CIT (A) has erred in not quashing the proceedings initiated and the assessment order u/s 147/144 despite fact that the learned AO has not made an efforts to serve any of the notices on the assessee as provided by law.*

*2. That the learned CIT (A) has erred in determining the total of the credit/deposit side of the bank accounts as unexplained income and even enhancing it to Rs. 1,17,79,860(1,17,19,860 + 60,000).*

*3. That the learned CIT (A) has erred in not accepting the explanations of the Appellant that in the line of dealing of old tyres, the purchases and sales are mainly in cash and the income may be estimated on a reasonable basis...*

*4. That the learned CIT (A) has erred in not observing the principle of determining the true income.*

*5. That the learned CIT (A), has erred in not accepting that the source of deposits is from the withdrawals from the bank and restricting the addition to peak balance.*

*6. The above grounds are independent and without prejudice to each other.*

*7. The appellant seeks leave to add, amend, alter or abandon any of the above grounds at the time of hearing of the appeal.”*

3. Brief facts of the case are that, an assessment order came to be passed u/s 147/144 of the Income Tax Act, 1961 ('Act' for short) of the Act by making addition of Rs. 46,58,891/- on account of unexplained income from undisclosed sources. As against the assessment order dated 26/03/2015, the Assessee preferred the Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 29/01/2018, dismissed the Appeal and also enhanced the addition. Aggrieved by the order of the Ld. CIT(A), the Assessee preferred the present Appeal on the grounds mentioned above.

4. The Ld. Counsel for the Assessee submitted that the assessment order has been framed u/s 144 of the Act and on the other hand, Ld. CIT(A) has erred in determining the total of the credit/deposit side of the bank accounts as unexplained income, further committed error in enhancing the addition to Rs 1,17,79,860/-. The Ld. Counsel for the Assessee further submitted that the Assessee has produced all the relevant documents to substantiate the claim of the Assessee, which were not been considered by both the authorities, thus sought for allowing the Appeal.

5. Per contra, the Ld. Departmental Representative by relying on the orders of the Lower Authorities sought for dismissal of the Appeal.

6. It is seen from the record that the assessment has been framed ex-parte u/s 147/144 of the Act. During the first appellate proceedings before the Ld. CIT(A), enhancement has been made to the tune of Rs. 1,17,79,860/-. The Assessee has produced several documents in which some are part of the assessment record. Considering the fact that the assessment has been framed ex-parte, in the interest of justice, we deem it fit to provide an opportunity to the Assessee to produce any/all documents to substantiate the claim of the Assessee before the A.O. Accordingly, the issue involved in the present Appeal is remanded to the A.O. with a direction to frame the

assessment afresh in accordance with law after providing an opportunity of being heard to the Assessee.

6. In the result, the Appeal of the Assessee is partly allowed for statistical purpose.

Order pronounced in open Court on 07<sup>th</sup> November, 2024

Sd/-

**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Dated: 07/11/2024

*R.N, Sr. PS*

Copy forwarded to:

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

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR

ITAT, NEW DELHI