

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES: B : NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.2349/Del/2024  
Assessment Year: 2010-11

Akhilesh Singh Bhadauria,  
A-19, Ground Floor,  
Ghazipur Village,  
Delhi – 110 096

Vs ITO,  
Ward-58(2),  
Delhi.

PAN: ALTPB9329H

(Appellant)

(Respondent)

Assessee by : Shri Amit Kumar Gupta, Advocate  
Revenue by : Shri Rajesh Kumar Dhanesta, Sr. DR  
Date of Hearing : 14.08.2025  
Date of Pronouncement : 10.09.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Assessee against the order of the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the Id. First Appellate Authority or ‘the FAA’, for short) dated 20.03.2024, passed in appeal No.CIT(A), Delhi-19/10582/2018-19 arising out of the appeal before it against the order dated 25.12.2017 passed u/s 144 of the Income Tax Act, 1961 (hereinafter referred as

‘the Act’) by the ITO, Ward-58(2), New Delhi (hereinafter referred to as the Ld. AO).

2. The grounds raised by assessee are as follows:-

*“1) The Ld. CIT(A) erred in law as well as on facts in upholding the order of the assessing officer passed us 144 r.w.s 147 which is without Jurisdiction. The assessment is completed by Ward 58(2) Delhi while jurisdiction of the assessee is Ward 58(1) Delhi as per the income tax portal and ITR filed by the assessee for AY 2010-11 dated 29.07.2010*

*2) The Ld. CIT(A) erred in law as well as on facts in upholding the assessment order without appreciating the fact that the assessing officer did not serve the notices/orders as per mandate of section 282 of the Act.*

*a) The Assessing officer has erred in law as well as on facts in not serving any notice/order to the address mentioned by the assessee in his latest ITR filed for AY 2017-18 on 27.05.2017.*

*b) The Assessing officer has erred in law as well as on facts in not affixing the notices/order at the address mentioned in the PAN database of the assessee or at the address which is in the latest ITR filed for AY 2017-18 on 27.05.2017.*

*c) The Assessing officer has erred in law as well as on facts in not serving the notices/order at the address mentioned on the ITBA portal of the assessee.*

*d) The Assessing officer has erred in law as well as on facts in issuing notice on address mentioned by the assessee in his ITR filed for AY 2010-11 and then reopening the assessment on the basis that the assessee has not filed return of income for AY2010-11.*

*e) The Assessing Officer has erred in not sending notices/order through email of the assessee or by contacting on his phone number as mentioned on the ITBA portal.*

*3) The learned Commissioner of Income-tax (Appeals) erred in not giving regard to the fact that the reason for reopening the assessment i.e. explanation 2 of clause a of section 147 is not applicable to the assessee as the assessee has filed return of income for AY 2017-11 dated 29.07.2010 which is also reflecting on the income tax portal.*

4) *The lid. CIT(A) erred in law as well as on facts in upholding the ex-parte assessment order passed u/s 144 r.w.s. 147 which is based in mechanical approvals from PCII, Delhi-20.*

5) *The Id. CIT(A) erred in law as well as on facts in upholding the order of the assessing officer which was passed on the basis of reasons to believe which were erroneous and were based on borrowed satisfaction.*

6) *The learned Commissioner of Income-tax (Appeals) erred in upholding the order of the Assessing Officer in confirming the addition of Rs. 86,00,000/- as unexplained cash credit under section 69A*

7) *The Ld. CIT(A) erred in law as well as on facts in upholding the order of the assessing officer in which additions u/s 69A have been made on the basis of bank statement of FY 2010-11 whereas the assessment has been completed for AY 2010-11 relevant to FY 2009-10. The relevant bank statement was also submitted before the Ld. CIT(Appeals).*

8) *The Ld. CIT(A) erred in law as well as on facts in upholding the order of the assessing officer without cross verification of the transactions of cash deposits in bank account with the concerned bank as these transactions were outrightly rejected by the assessee during the appeal proceedings.*

9) *The Ld. CIT(A) erred in law as well as on facts in not considering the affidavit filed by the assessee.*

10) *The Ld. AO has erred both on facts and in law in levying interest under section 234B and 234C of the Act.*

11) *The Ld.AO has erred both on facts and in law in initiating penalty proceedings under section 271(1)(c) of the Act.*

12) *That the above grounds of appeal are without prejudice to one another and the Appellant craves leave to add, alter, amend, delete or modify any of the above grounds of appeal.”*

2.1 Heard and perused the records. The facts giving rise to this appeal are that the assessee filed return of income for AY 2010-11 on 29.07.2010 showing income of Rs. 2,37,966/- from the head salary. He earned salary income from M/s Canon India Pvt. Ltd during the financial year. On 31.03.2017, notice u/s 148 of the Act was issued to the assessee. The notice u/s 148 of the Act has been

issued with reasons to believe that the assessee has not filed return of income for AY 2010-11 which is specified in the reasons for reopening the assessment. Ld. AR has submitted that there is complete non-application of mind of the assessing officer in recording reasons that the assessee has not filed his return of income whereas the assessee has filed his return of income on 29.07.2010 which is appearing on the income tax portal also.

3. At outset, Ld. AR has also pointed out that the assessing officer issued notices during the assessment proceedings at the following addresses:

- 1) 201.Maittiora Complex Shakarpur Deh-92
- 2) U 18. Main Market, Shakarpur, Delhi-92
- 3) A-20 Baldev Park New Delhi-2
- 4) D-47 Shakarpur, Delhi-92
- 5) House No 50,4 Floor Garwhali Mohalla, Delhi-92

4. We find that the assessing officer has erred in not making proper service of notices to the assessee. Admittedly, the address of the assessee as per ITBA database is A-19, Ground floor, Gazipur, Delhi-110096. The assessing officer has not served any of the notices at this address although the assessee has filed his ITR for AY 2017-18 dated 27.05.2017 with this address. This address was available with assessing officer during the assessment proceedings in 2017 and even then, he did not issue any of the notices on this address. Ld. AR has submitted that out of the aforesaid addresses, the address U-18, Main Market,

Shakarpur, Delhi-110092 is the address in the PAN database of the assessee. The assessing officer has mentioned in his assessment order that he has affixed the notice at the last known address. He has not mentioned that on which address he has affixed the notice. The address, House No 50, 4 Floor Garwhali Mohalla, Delhi-92, is available in ITR filed for AY 2010-11 by the assessee. Since the assessing officer has alleged that the assessee has not filed return of income of AY 2010-11, then it is surprising that from where did the assessing officer got the address mentioned by the assessee in his return filed for AY 2010-11. Thus we are also inclined to hold that the assessing officer has erred in not affixing the notice at the address available in PAN database of the assessee i.e. at U-18, Main Market, Shakarpur, Delhi-110092 and affixing it on last known address which is not the address of the assessee. The Assessing officer has erred in law as well as on facts in not affixing the notice at the address mentioned in the PAN database of the assessee or at the address which was given in the last return filed by the assessee for the AY 2017-18. There is also substance in the contention of ld. AR that the Assessing officer has erred in law as well as on facts in not serving notices on the email id of the assessee and by not contacting the assessee on the contact no. available on the ITBA portal.

5. Next, both, in the reasons recorded and the approval given by the PCIT, it is the stand of the revenue that the case of the assessee falls under category of 147 explanation 2 of clause a i.e. where the assessee has not filed the return of

income and the department alleges escapement of income. Although the fact is that the assessee had filed the return meaning thereby that clause (a) of explanation 2 of section 147 is not applicable to the assessee on the basis of which the notice u/s 148 has been issued and assessment has been done. When the basic foundation on the basis of which the notice is issued is wrong/then it makes the whole proceedings void ab initio.

6. Ld. AR has submitted that the assessing officer has stated in reasons that there is cash deposit of Rs. 86,00,000/- in Indusind bank account without mentioning the bank account number of the assessee during the FY 2009-10. However, as matter of fact assessing officer has made the addition on the basis of the bank statement of the financial year 2010-11 for AY 2010-11 and even if we consider bank statement of FY 2010-11 also, there is cash deposit of Rs 6000/- only. It is also coming up that the assessing officer has made addition of Rs.86,00,000/- on the basis of cash deposits in bank account although there is no mention of bank account number either in the notices or the assessment order. Apparently the assessing officer has erred in making addition for AY 2010-11 on the basis of bank statement which pertains to AY 2011-12. The alleged bank account was opened on 28.06.2010. Same established there is complete non-application of mind of the assessing officer in passing assessment order for AY 2010-11 on the basis of alleged bank statement of FY 2010-11.

7. Lastly the contention of Id. AR is that notices u/s 142(1) of the Act were issued and assessment order u/s 144 r.w.s.147 of the Act was passed on 25.12.2017 making additions of Rs.86,00,000/- to the income of the assessee on alleged unexplained cash deposits in Indusind Bank Lajpat Nagar Branch. The above notices and order were not received by the assessee and hence the assessment was done *ex parte*. Ld. AR submitted that the professional of the assessee observed outstanding demand on portal of the assessee in September 2018 and informed the assessee about the same. The assessee requested the Ld. Assessing officer vide letter dated 27.09.2018 to provide copy of the assessment order dated 25.12.2017. The assessee kept following up with the assessing officer and again vide letter dated 15.10.2018 requested for copy of the assessment order but the same was not received. Meanwhile, the income tax recovery team pressed demands on the assessee and assessee paid Rs. 5,00,000/- as income tax for AY 2010-11. On 05.03.2019, the assessee once again visited the income tax department and obtained the order copy. The assessee without any further delay filed appeal to CIT(Appeals) dated 08.03.2019. The National faceless Appeal Centre disposed of the appeal on 20.03.2024 without considering the submissions of the assessee. The assessee contended that the alleged bank account was not opened by the assessee and someone else opened bank account in his name and fraudulently did transactions in the same. The assessee also filed FIR on 06.03.2019. The assessee further filed application in Indusind Bank Lajpat Nagar for obtaining details of the fraudulent person. The

assessee did inspection of records in the income tax department on 05.01.2022 to verify the details/documents on the basis of which addition of Rs.86,00,000/- has been made. The assessee obtained copy of the alleged bank statement and copy of reasons for reopening the assessment. The assessee after perusal of bank statement received through inspection came to know that someone is operating a bank account in his name. The assessee disowns these transactions.

8. We find all these aspects have been completely left out of consideration. While tax authorities have powers of adjudication of tax liability they also have powers to enquire and investigate into the cause of action giving rise to alleged tax liability. When an assessee raised such a serious defense of misuse of his name and identity for operating any bank account then that certainly needs extraordinary indulgence of tax authorities to use their powers under the Act to unearth the fraud. Same is not done here thus on this account alone the assessee needs to be benefited.

9. Resultantly ground no. 1 to 9 are sustained. Remaining grounds are consequential in nature. Accordingly the appeal is allowed. Impugned assessment is quashed.

Order pronounced in the open court on 10.09.2025.

Sd/-

(MANISH AGARWAL)  
ACCOUNTANT MEMBER

Dated: 10<sup>th</sup> September, 2025.

Sd/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi