

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH "SMC" NEW DELHI)**

BEFORE SHRI B.P. JAIN, ACCOUNTANT MEMBER

**ITA No. 5606/Del./2015
Assessment Year: 2010-11**

Ashok Kumar Mishra 25A, Dhawalgiri Apartment, Sector- 11, Noida	Vs.	ITO Ward-1(1), Noida
(Applicant)		(Respondent)
(PAN: AIQPM6135N)		

Assessee by: Sh. K.P. Garg, FCA

Revenue by: Ms. Bedobina Chaudhari, Sr. DR

Date of hearing	07/03/2017
Date of pronouncement	09/03/2017

ORDER

PER B.P. JAIN, ACCOUNTANT MEMBER:

1. This appeal of the assessee arises from the order of Id. CIT(A)-I, New Delhi vide order dated 10.06.2015 for the A.Y. 2010-11. The assessee has raised the following grounds of appeal:-

1. "The Id. AO has erred on facts and in law in passing the impugned order u/s 143(3) which is contrary to law, equity and justice and facts and material on record, arbitrary, based on conjectures and surmises, passed without granting proper opportunity to defend.
2. The appellant denies his liability to tax as determined and computed by the Id. AO and the manner in which it has been so determined or computed.
3. The Id. AO has erred in law and on facts in making the

impugned additions and the Id. CIT(A) has erred in confirming the same without application of mind.

- a) Addition of Rs.1,66,171/- on account of interest income on FDRs - calculated @ 10% p.a. on the FDR amount, being added as undisclosed income.
 - b) Addition of Rs.85,500/- on account of Agriculture income for want of documentary proof for sale of agricultural produce.
 - c) Addition of Rs. 1,70,000/- as unexplained unsecured loans on account of alleged non creditworthiness and non production of ledger.
 - d) Addition of Rs. 1,00,000/- on account of various expenses on lumpsum basis to cover up alleged leakages.
4. The appellant craves to add amend or alter any ground of appeal during the appellate proceedings.”

2. The ground no. 1, 2 and 4 are general in nature and do not require any adjudication.

3. As regards the ground no. 3(a) the same is not pressed by the Id. AR and therefore the same stands dismissed as is not pressed.

4. As regards the addition of Rs. 85,500/-, the Assessing Officer made an addition since the assessee could not produce the evidence of the said income, which was confirmed by the Id. CIT (A).

5. I have heard the rival contentions and perused the facts of the case. It was submitted by the assessee that on the death of his father he acquired about 1.7 acres of agriculture land in district Allahabad, where agricultural operations are being carried out regularly and the assessee

has been receiving the rent/revenue from the tenant which was declared regularly. Therefore in such circumstances the Assessing Officer is not required to make any addition and addition so made and confirmed by the Id. CIT(A) is directed to be deleted.

6. As regards the unsecured loan of Rs. 1,70,000/-, the assessee was asked to produce Mr. Sanjay Mishra from whom loan was taken and also failed to produce copy of the ITR of the lender. However the acknowledgment of the return was produced before the Id. CIT(A) for which the Id. CIT(A) observed that the lender does not have sufficient income to advance loan of Rs. 1,70,000/- accordingly addition so made by the Assessing Officer was confirmed by the Id. CIT(A).

7. I have heard the rival contentions and perused the facts of the case. The assessee has filed the confirmation of the creditors which is supported by the bank account, sources, income tax return and there was no deposit of cash was explained to the authorities below. In such cases and circumstances of the case no addition is called for and additions so made is directed to be deleted.

8. As regards the disallowance of expenses on ad hoc basis amounting to Rs. 1 lac the assessee could not purchase produce the vouchers in

support of various expenses and accordingly to plough the leakage, the Assessing Officer made a lump sum addition of Rs. 1 lac and the Id. CIT(A) confirmed the action of the Assessing Officer.

9. I have heard the rival contentions and perused the facts of the case. Since the assessee could not produce the vouchers and therefore there is no alternative to estimate the expenses. But however in the circumstances and facts of the case the disallowance appears to be excessive and therefore I direct the Assessing Officer to relief of Rs. 50,000/- and sustain the disallowance of Rs. 50,000/-. The orders of both the authorities are modified accordingly. Thus the ground is partly allowed.

10. In the result, the appeal of the assessee is partly allowed.

11. Pronounced in the open court on 09.03.2017.

(B.P. JAIN)
ACCOUNTANT MEMBER

Dated: 09.03.2017

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Copy forwarded to:

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

ASSISTANT REGISTRAR

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