

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : "SMC-2" : DELHI  
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER  
ITA.No.6166/Del./2019  
Assessment Year 2011-2012

Shri Kuldeep, 211, Daryapur, North Delhi. PIN – 110 039. PAN BOZPK1258Q	vs.	The Income Tax Officer, Ward – 37(4), New Delhi.
(Appellant)		(Respondent)

For Assessee :	Ms. Rano Jain, Advocate.
For Revenue :	-None-

Date of Hearing :	27.08.2020
Date of Pronouncement :	27.08.2020

**ORDER**

**PER BHAVNESH SAINI, J.M.**

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-13, New Delhi, Dated 12.06.2019, for the A.Y. 2011-2012, challenging the initiation of re-assessment proceedings under section 147 of the I.T. Act, 1961 and addition of Rs.15,40,000/- under section 69 of the I.T. Act, 1961.

2. Briefly the facts of the case are that re-assessment proceedings were initiated under section 147 of the I.T. Act, 1961. Notice under section 148 was issued to assessee. The A.O. noted that assessee did not appear did not file reply. Later on, statutory notices were also issued, but, there were no compliance. The A.O, therefore, proceeded to pass ex-parte assessment order under section 144/147 of the I.T. Act, 1961. Since there were cash deposit of Rs.15,40,000/- in assessment year under appeal and in the absence of any explanation from the side of the assessee, the A.O. treated the cash deposits as unexplained and made addition of Rs.15,40,000/- under section 69 of the I.T. Act, 1961.

3. The assessee challenged the re-assessment order as well as addition before the Ld. CIT(A). The assessee filed an application under Rule 46A of the I.T. Rules before the Ld. CIT(A) furnishing copy of the bank statement, proof of sale of wheat in Form-J and copy of khautauni evidencing land on which wheat was cultivated in the name of father of the assessee. It was explained before the Ld. CIT(A) that

assessee is engaged in the business of cultivating wheat and sold the same in open market, out of which, agricultural income was earned and the assessee being a farmer was unaware of the consequences of the notice. Therefore, there was a default to comply with the notice. The Ld. CIT(A), however, did not admit the additional evidences and dismissed the appeal of assessee.

4. Learned Counsel for the Assessee submitted that additional evidences were crucial in nature and goes to the root of the matter, therefore, same should have been admitted by the Ld. CIT(A) and decide the appeal on merit. Therefore, matter may be remanded to the Ld. CIT(A) for disposal afresh by admitting the additional evidences.

5. None appeared on behalf of the Department.

6. Considering the facts of the case, we are of the view that additional evidences should have been admitted by the Ld. CIT(A). The Hon'ble Delhi High Court in the cases of Commissioner of Income Tax vs., Text Hundred India P. Ltd., [2013] 351 ITR 57 (Del.) and Commissioner of Income

Tax vs., Virgin Securities and Credits P. Ltd., [2011] 332 ITR 396 held that “*when additional evidences are necessary and crucial for disposal of the appeals, the same should have been admitted*”. The Hon’ble Supreme Court in the case of Tekram 262 CTR 118 held that “*additional evidences be admitted being relevant and require to be looked into.*” In the light of the above decisions, it is clear that the additional evidences filed by assessee before the Ld. CIT(A) were relevant and necessary for disposal of the appeal to explain the source of the cash deposit, therefore, the same should be admitted by the Ld. CIT(A) for disposal of the appeal. Further, the Ld. CIT(A) being the First Appellate Authority should have seen the documents in order to do justice between the parties. In view of the above discussion, we set aside the impugned order of the Ld. CIT(A) and admit the additional evidences. The Ld. CIT(A) is directed to decide the appeal of assessee on merits considering the additional evidences on record, by giving reasonable, sufficient opportunity of being heard to the assessee and A.O.

7. In the result, appeal of the Assessee allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-  
(O.P. KANT)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 27<sup>th</sup> August, 2020

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-2' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :  
Delhi.