

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.7181/Del/2017
Assessment Year: 2012-13

Sh. Sanjeev Kumar Singh, S-307, First Floor, School Block, Shakarpur, New Delhi	Vs.	ITO, Ward-60(5), New Delhi
PAN :AHFPS5152B		
(Appellant)		(Respondent)

Appellant by	Sh. Gagan Kumar, Adv.
Respondent by	Sh. Umesh Takyar, Sr.DR

Date of hearing	24.02.2022
Date of pronouncement	07.03.2022

ORDER

PER SAKTIJIT DEY, JM:

This is an appeal by the assessee against order dated 29.09.2017 of learned Commissioner of Income Tax (Appeals)-37, New Delhi, pertaining to assessment year 2012-13.

2. The primary grievance of the assessee, as articulated in ground no. 3, relates to rejection of additional evidences filed in course of proceeding before learned first appellate authority.

3. Briefly the facts are, the assessee is a resident individual. For the assessment year under consideration, assessee filed his return of income on 30.09.2012 declaring income of Rs.1,96,830/-. While completing the assessment under section 143(3) of the Income-tax Act, 1961 (for short 'the Act') vide order dated 31.03.2015, the Assessing Officer made a number of additions which enhanced the income to Rs.2,78,39,020/-. Against the assessment order so passed, the assessee preferred an appeal before learned Commissioner (Appeals.).

4. However, by the impugned order, learned Commissioner (Appeals), more or less, sustained all the additions, except one issue which was directed to be verified by the Assessing Officer.

5. Before us, learned counsel for the assessee submitted, in course of hearing before learned first appellate authority, the assessee has furnished a number of additional evidences to establish his claim against the additions made by the Assessing Officer. He submitted, the predecessor first appellate authority had admitted the evidences and called for a remand report from the Assessing officer, however, the successor in office, without waiting for the remand report, sustained the additions made after rejecting the additional evidences furnished by the assessee.

Thus, he submitted, there is clear violation of rules of natural justice.

6. Learned Departmental Representative left it to the discretion of the Bench for restoration of the appeal to learned first appellate authority.

7. We have considered rival submissions and perused the materials on record. On a perusal of the observations made by learned Commissioner (Appeals) in paragraph -4 of the impugned order, it is very much clear that he has accepted the fact that before the predecessor first appellate authority, the assessee had filed certain additional evidences which were forwarded to the Assessing Officer seeking his comments. However, as a successor, when learned Commissioner (appeals) took up the appeal proceeding, he completely rejected the additional evidences furnished by stating that he is not bound by the act of his predecessor, insofar as, it relates to conducting of appellate proceeding. Thus, he has not entertained assessee's plea of admitting the additional evidences. It is a fact on record that as against the meager income offered by the assessee, the Assessing Officer has made huge additions which has enhanced the income to Rs. 2.78 crores. Therefore, the assessee needs a fair

opportunity to establish its case with supporting evidences while contesting the additions. When the additional evidences furnished by the assessee, as submitted by learned counsel for the assessee, were already admitted and remand report was called for from the Assessing Officer, the successor in office cannot simply reject such additional evidences without examining them on their own merits. Thus, to that extent, the assessee was not granted a fair opportunity of hearing by learned first appellate authority.

8. In view of the aforesaid, we are inclined to restore the issue to the file of learned Commissioner (Appeals) for de-novo adjudication after considering the additional evidences filed by the assessee which are already on record and the remand report of the Assessing Officer, if any. Only after providing a fair opportunity of being heard to the assessee learned Commissioner (Appeals) may dispose of the appeal in accordance with law. Since, we are restoring the matter to the file of learned Commissioner (Appeals) for considering the additional evidences filed by the assessee, there is no need for us to delve into the grounds raised on merits, which are also restored back to the file of learned Commissioner (Appeals). Grounds are allowed for statistical purposes.

9. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 7th March, 2022

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 7th March, 2022.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi