

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC-3", NEW DELHI  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 6979/DEL/2014 (AY. 2010-11)		
SH. MANOJ CHANDRA JAIN, E-146, 1 <sup>ST</sup> FLOOR, AMAR COLONY, LAJPAT NAGAR-IV, NEW DELHI (PAN: AEKPJ4865Q)	VS.	ITO, WARD 37(1), NEW DELHI
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Assessee by : Ms. Megha Mittal, CA  
Department by : Sh. FR Meena, Sr. DR

**Date of Hearing : 22-08-2016**  
**Date of Order : 30-08-2016**

**ORDER**

**PER H.S. SIDHU, JM**

Assessee has filed the Appeal against the Order dated 21.10.2014 passed by the Ld. Commissioner of Income Tax (Appeals)—XXVIII, New Delhi pertaining to assessment year 2010-11

2. The grounds raised by the assessee read as under:-
  1. That the order of the Ld. CIT(A) is bad in law.
  2. The order of the Ld. CIT(A) confirming the addition of Rs. 1,09,256/- on account of treating it unexplained expenditure without considering facts the expenditure has not been debited in profit and loss account and reflected in books of accounts.

3. The order of the Ld. CIT(A) confirming the addition of Rs. 3095/- on account of disallowance of expenses incurred on newspapers and books and periodicals.
4. The appellant craves leave to add, alter, amend or modify any of the grounds of appeal before or at the time of hearing of the appeal.

3. The brief facts of the case are that assessee filed return of income declaring income of Rs. 15,32,750/- on 14.10.2010 and the same was processed under section 143(1) of the I.T. Act, 1961. The case was selected for scrutiny under CASS. Notice u/s. 143(2) of the I.T. Act, 1961 of various dates were issued and served upon and in response to the same Assessee's AR attended the proceedings from time to time and filed the necessary details called for, produced books of accounts and vouchers which were examined on test check basis. AO observed that the assessee has paid the above expenses in cash. As no documentary evidence regarding above payments have been produced by the assessee, therefore, he held that these payments have been made out of undisclosed sources of the assessee, hence, the same were added back in the returned income of the assessee amounting to Rs. 1,09,256/- AO further observed that assessee has shown expenses on account of books and periodicals amounting to Rs. 7738/-, whereas these expenses are of capital in nature and are eligible for depreciation @60%. Hence, 40% of Rs. 7738/- i.e. Rs. 3095/- was disallowed and added back to the total income of the assessee and completed the assessment at Rs. 17,23,780/- u/s. 143(3) of the I.T. Act, 1961 vide his order dated 20.3.2013.

4. Against the assessment order dated 20.3.2013, assessee appealed before the Ld. CIT(A), who vide impugned order dated 14.10.2014 has

confirmed the additions in dispute and partly allowed the appeal of the assessee.

5. Aggrieved with the aforesaid order of the Ld. CIT(A), assessee is in appeal before the Tribunal.

6. During the hearing, Ld. Counsel of the Assessee has submitted that the issue raised vide ground no. 2 relating to confirming of addition of Rs. 1,09,256/- is squarely covered by the Hon'ble High Court of Delhi Judgement dated 30.4.2010 in the case of CIT vs. Radhika Creation reported in (2011) 10 taxmann.com 138 (Delhi). Hence, she requested that the same may be respectfully followed in the instant case and the ground raised by the assessee may be accordingly allowed.

7. On the other hand, Ld. DR relied upon the orders of the authorities below and requested that same may be upheld.

8. I have heard both the parties and perused the relevant records available with me, especially the orders passed by the revenue authorities and the Judgement dated 30.4.2010 of the Hon'ble High Court in the case of CIT vs. Radhika Creation reported in (2011) 10 taxmann.com 138 (Delhi). I find that the assessee has not claimed the said amount in the profit and loss account. It is a part of fixed assets. The payments of the said expenses are out of the audited books of account. Hence, it cannot be said that payment is out of undisclosed source. Audited balance sheet and profit and loss accounts were submitted before the AO & the Ld. CIT(A) including the complete books of accounts and cash book and no defect has been pointed out by the AO. Therefore, the Section 69C is not applicable on the

expenditure accounted for in the books of accounts. I also find that Hon'ble High Court of Delhi in its judgment dated 30.4.2010 in the case of CIT vs. Radhika Creation (Supra) has held that when expenditure in question was shown in regular books of account, Tribunal was justified in holding that source of expenditure was explained and accordingly deleted the addition. In view of the above, I am of the view that issue in dispute in the present appeal is squarely covered by the aforesaid judgment of the Hon'ble High Court of Delhi, hence, respectfully follow the said ratio, I delete the addition in dispute and allow the ground no. 2 in favour of the assessee.

9. With regard to ground no.3 relating to confirming the addition of Rs.3905/- on account of disallowance of expenses incurred on newspapers and books and periodicals is concerned, I find that AO has allowed the depreciation @60% and disallowed 40% of the amount of Rs. 7738/- and similarly Ld. CIT(A) affirmed the action of the AO. I find that an amount of Rs. 4048/- was incurred for monthly newspaper paid to Mr.Durga Charan Gupta and Bill was attached at PB Page No. 21-26. Rs. 2790/- was paid for yearly addition of books i.e. ready reckner, Income Tax Act, Income Tax Rules, Wealth Tax and Budget of year 2009-10 and the Bill is annexed at Page No. 21 of the PB. From the records, I note that the assessee is working Chartered Accountant and various books are required for running the profession. There is no doubt that the said payments are not capital in nature, but the same were incurred every year and very essential for

running the profession. Hence, I delete the addition of Rs. 3095/- on this account and allow the ground no. 3 raised by the assessee.

10. In the result, the Appeal filed by the Assessee stand allowed.

Order pronounced in the Open Court on 30/08/2016.

SD/-

**[H.S. SIDHU]  
JUDICIAL MEMBER**

*Date: 30/08/2016*

**“SRBHATNAGAR”**

**Copy forwarded to: -**

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

TRUE COPY

By Order,

Assistant Registrar,  
ITAT, Delhi Benches