

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'E', NEW DELHI)**

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND SHRI KULDIP SINGH, JUDICIAL MEMBER
I.T.A. Nos.6036 & 6037 /Del/2014
Assessment years : 20011-2012 & 2012-2013

Mahalaxmi Bullions Pvt. Ltd., 1167/1172, Shop No.218, 11nd Floor, Kucha Mahajani, Chandni Chowk, Delhi GIR / PAN:AAGSC,4162J	Vs.	DCIT, CC-22, New Delhi
--	-----	---------------------------

I.T.A.Nos/6033, 6034 & 6035/Del/2014
(Assessment Years 2010-2011, 2011-2012 & 2012-2013)

North Delhi Bullion Trades Pvt .Ltd., 1164, Basaement Shop No.7, Kucha Mahajani, Chandni Chowk, Delhi GIR / PAN: AADCN0380L	Vs.	DCIT, CC-22, New Delhi
--	-----	---------------------------

(Appellants)	(Respondents)
Appellant by :	Shri Sanjay Mehra, CA
Respondent by :	Shri Ravi Jain, CIT DR

Date of hearing : 23.09.2015

Date of pronouncement : 12.10.2015

ORDER

PER BENCH:

Since in all the aforesaid five appeals, identical grounds have been raised and even the issues involved are identical, so, with the

concurrence of the parties to the appeals, all the appeals are taken up together for decision to avoid repetition of discussion.

1.1 The appellants by filing the present appeals u/s 250 of the Income Tax Act, 1961 (for short 'the Act'), sought to set aside the impugned order dated 29.09.2014 passed by Ld. CIT(A)-III, New Delhi for the Assessment Years 2010-2011, 2011-2012, 2012-2013 on the grounds inter alia that:

“1. That the Learned Commissioner of Income Tax (Appeals) - III, New Delhi erred, in confirming the assessment concluded by Ld. AO at Rs. 9,58,51,880/- instead of the returned income of Rs. 7,03,520/- made in absence of any related adverse documents or materials, found in course of the search operation.

2. That the Learned Commissioner of Income Tax (Appeals) - III, New Delhi erred on facts as well as in law, in confirming an addition of Rs.5,30,00,000/- on account of unexplained credits, in respect of share application monies including premium, as received by the appellant.

3. That the Learned Commissioner of Income tax (Appeals) - III, New Delhi erred, in upholding the inferences made by Ld. AO that a sum of Rs. 5,30,00,000/- as above- said are accommodation entries, without confronting any such related details & documents to the assessee.

4. That the Learned Commissioner of Income Tax (Appeals) - III, New Delhi erred, in absence of any opportunity of cross examination given to appellant in relation to any of the party/ies who it is alleged have granted accommodation entries.

5. That the Learned Commissioner of Income Tax (Appeals) - III, New Delhi erred on facts as well as in law, in confirming a disallowance of Rs. 3,07,16,874/- on account of Labor charges & Administrative expenses, as incurred by the appellant.

6. That the Learned Commissioner of income Tax (Appeals) – III, New Delhi erred on facts as well as in law, in confirming an addition

of Rs. 1,14,31,490/- on account of unexplained credits, in respect of loans raised by the appellant.

7. That the Learned Commissioner of Income Tax (Appeals) - III, New Delhi erred on facts as well as in law, in upholding the assessment by Ld. AO, concluded in contradiction of the applicable provisions of law.

8. That the Learned Commissioner of Income Tax (Appeals) - III, New Delhi erred on facts as well as in law, in not deciding the appeal on merits & in a non-speaking manner, without dealing with all aspects of the various additions made.

9. That the Learned Commissioner of Income Tax (Appeals) - III, New Delhi erred on facts as well as in law, as the order passed by Ld. CIT(A) is pervasive to the specific provisions of law & the interpretations by higher courts and is as such, a nullity.

10. That the Learned Commissioner of Income Tax (Appeals) - III, New Delhi erred on facts as well as in law, in not granting proper opportunities to the appellant, as per law and also in not appreciating that the assessment was concluded, in absence of proper opportunity of being heard, granted to the appellant.”

2. Briefly stated the facts of this case are that a search and seizure operation u/s 132 of the Act was initiated in case of the assessee as part of Bullion group on 20.07.2011. Then, notice u/s 153A was issued on 22.10.2012 requiring the assessee to file return of income u/s 153A within 15 days and in response thereto, the assessee filed its return of income on 17.12.2012. Thereafter, a questionnaire was issued to the assessee on 18.07.2013 and notice was issued u/s 142(1) on 19.11.2013 and in response thereto, the assessee submitted vide letter dated 18.12.2013 to treat its return filed u/s 139 as response/reply to the notice u/s 153A of the Act. Then, notice u/s 143(2) was issued on 18.12.2013.

3. Shri Atul Khandelwal, CA/AR of the assessee attended the proceedings on 16.01.2014, filed some details and the case was adjourned to 17.01.2014 on which date, nobody attended the proceedings. Then, Ld. A.R. of the assessee attended the proceedings on 13.03.2014 and he was required to file necessary documents in support of its claim and was specifically told that it being a time barred matter, no further adjournment would be granted and the case would be decided on the basis of material available on record then the case was adjourned to 14.03.2014 at 11.00 AM on which date, Ld. A.R. of the assessee attended and filed power of attorney only and the case was discussed with him. Since the Ld. A.R. has not filed the required details, the assessment was made on the basis of material available on record. While the case of one entry operator Shri Himanshu Verma was being assessed with Central Circle-16, New Delhi, who was told to ascertain if the said entry operator Shri Himanshu Verma provided any entry to the assessee.

4. The Deputy Commissioner of Income Tax, Central Circle 16, New Delhi provided complete details along with list enclosed regarding accommodation entry taken by the assessee, which shows that the assessee has received accommodation entry from Shri Himanshu Verma (entry operator), but the assessee has not filed any detail. Consequently, as per the balance sheet furnished, share capital is shown at Rs.52,50,000/- and the fresh share application money of Rs.5,00,000/-. The assessee has also received security premium at Rs.4,72,50,000/-. The assessee has not filed details of share capital, share application money and security premium. The identity of the person who paid the money, creditworthiness and genuineness of transaction is not proved. Therefore, addition of Rs.57,50,000/- on

account of share capital, share application money and addition of Rs.4,72,50,000/- on account of security premium is added in the income of the assessee from 'undisclosed sources' u/s 68 of the Act. The assessee has not filed any confirmation of creditors and as such the credit at Rs.1,14,31,490/- remained unverifiable and as such the same is added to the income of the assessee.

5. On the failure of assessee to produce books of account for verification and necessary information for verification 5% of purchase and 10% of expenses claimed in the P & L account are disallowed and added in the income of the assessee. The purchases is shown at Rs.60,86,19,398/-, 5% of which comes to Rs.3,04,30,970/-. The administrative and other expenses claimed in the P & L account at Rs.28,59,039/- @ 10% of this amount which comes to Rs.2,85,904/- and as such, the total addition of Rs.3,07,16,874/- is made to the income of the assessee. Consequently, income of the assessee is assessed at Rs.9,58,51,880/-.

6. The appeal preferred by the assessee challenging the order of assessment, has been dismissed by Ld. CIT(A) vide impugned order dated 29.09.2014. Now, the assessee has come up before the Tribunal by filing the present appeal.

7. Ld. A.R. challenging the impugned order contended inter alia that the assessee has not been provided with the opportunity to produce the books of account and the creditors before the A.O.; that A.O. has disallowed the expenses without confronting the assessee with the material collected at his back and as such, ad-hoc disallowance of expenses is not permissible; that the assessee has sufficient material to discharge his onus u/s 68 of the Act

and filed application for admission of additional evidence under Rule 29 of ITAT Rules 1963 and prayed to set aside the impugned order.

8. On the other hand Ld. D.R. repelled the contentions raised by Ld. A.R. and contended inter alia that when the A.O. has specifically called upon the assessee to file documents, the assessee is estopped by his own conduct from contending that he is not provided with an opportunity of being heard and as such, the application moved by the assessee under Rule 29 of ITAT Rules 1963 is not maintainable as no such application was filed by assessee before the A.O. or Ld. CIT(A); that Rule 29 of ITAT Rules, is to be construed strictly and when the assessee has duly appeared through his CA/AR, he cannot claim that proper opportunity has not been provided to him and prayed for dismissal of the present appeal of the assessee. No ground is made out to reopen the case which was frustrated properly on filing of appeal before the Tribunal

9. We have heard the Ld. Authorized representatives of the parties and gone through the documents relied upon in the light of the facts and circumstances of the case.

10. Undisputed facts of this case are inter alia that search and seizure operation u/s 132 of the Act was initiated against the assessee as part of bullion group on 20.07.2011 and search warrant u/s 132(1) of the Act was issued and executed in the name of assessee; that notice u/s 153A of the Act was issued on 22.10.2012 requiring the assessee to file return of income u/s 153A within 15 days, which he has filed on 17.12.2012; that a questionnaire was issued to the assessee on 18.07.2013 and notice u/s 142(1) was issued on 19.11.2013 and in response thereto the assessee filed reply dated 18.12.2013 that the return filed by it u/s 139 be treated as response to the

notice u/s 153A of the Act; that the notice u/s 143(2) was issued on 18.12.2013 and in response thereto, Shri Atul Khandelwal, CA/AR of the assessee attended the proceedings on 16.01.2014 and filed some details and then case was adjourned to 17.01.2014 but nobody attended the proceedings on 17.01.2014; that when Shri Atul Khandelwal CA/AR of the assessee attended the proceedings on 13.03.2014, he was specifically asked to file the following documents:

- a) Detail of share capital with source of share capital, identity of person and genuineness of transaction.
- b) Share application with source of share application, identity of person and genuineness of transaction.
- c) Confirmation copy of loans and advance
- d) Confirmation of sundry creditors and sundry debtors.
- e) He is required to show cause as to why the membership fee of Rs.11,07,310/- + Rs. 1,000/- should not be added in the income as the same is capital expenditure in nature.”

that assessee was made aware that it being a time barred matter, no further adjournment shall be granted and the case will be decided on the basis of material available on record and that the case was adjourned to 14.03.2014 at 11.00 AM, on which date, Shri Atul Khandelwal, CA/AR of the assessee attended to file Power of Attorney only and the case was discussed with him by the Ld. D.R. but Shri Atul Khandelwal has not preferred to file requisite details and consequently, the assessment was made.

12. The A.O. has specifically sought information form A.O. of Central Circle-16, New Delhi if Shri Himanshu Verma, entry operator being assessed with CC-16, New Delhi, has provided any entry to the assessee and

consequently, the A.O. of CC-16, New Delhi vide his letter dated 18.03.2014 has provided information sought for, which is reproduced as under for ready reference:

“ F. No. DCIT /CC-16/2013-14/

Dated: 18/03/2014

To

The Deputy Commissioner of Income Tax

Central Circle-22

New Delhi.

Sir,

Sub:- Assessment in the case of M/s Mahalaxmi Bullions Pvt. Ltd and M/s North Delhi Bullion Traders Pvt. Ltd. A. Y. 2010-11 to 2012-13-regarding. Please refer the above.

Ref- F.No. OCITICC-2212013-141912 dated 14.03.2014.

In this regard, it is informed that a search was conducted on Sh. Himanshu Verma on 29.03.2012 by Unit-VI, New Delhi. Sh. Himanshu Verma is an accommodation entry provider and he has admitted during the course of search that all the following parties listed by you - namely M/s Soffpro Technologies Pvt. Ltd., M/s Cornelius Marketing Pvt. Ltd., M/s Transmission Merchandise Pvt. Ltd. and M/s Citylife Promoters Pvt. Ltd. are his conduit companies and are used for providing accommodation entries.

M/s North Delhi Bullion Traders Pvt. Ltd. has received accommodation entry from the above companies amounting to Rs.2. 10 crores in A. Y. 2011-12. Other companies of Sh. Himanshu Verma group namely M/s Rising Portfolio India Pvt. Ltd Rs.50,00,000/- M/s Mithiachal Industrial & finance Pvt. Ltd. Rs.1,00,00,000/-, Omexpo Industries Pvt. Ltd. Rs.50,00,000/- have also given entries of Rs. 2 crores to your assessee in A. Y. 2012-13. Further, the assessment in the case of Sh. Himanshu Verma & his companies is also under progress with the undersigned & getting barred by limitation 31.03.2014.

Further, M/s Mahalaxmi Bullions Pvt. Ltd. has received accommodation entries of Rs. 6.3 crores as per list attached from Sh. Himanshu Verma Group.

Yours faithfully,

(N. D. Gupta)

Deputy Commissioner of Income Tax

Central Circle-16, New Delhi"

LIST

<i>Omexpo Ent. Pvt. Ltd.</i>	<i>2011-12</i>
<i>Jaguar Softech Pvt. Ltd.</i>	<i>2010-11</i>
<i>Saffron Logistics Pvt. Ltd.</i>	<i>2010-11</i>
<i>USK Exim Pvt. Ltd.</i>	<i>2010-11</i>
<i>White Collar Management Pvt. Ltd.</i>	<i>2010-11</i>
<i>Rising Portfolio India Pvt. Ltd.</i>	<i>2011-12</i>
<i>Cornelius Marketing and Research Pvt. Ltd.</i>	<i>2010-11</i>
<i>Rhythm Exim Pvt. Ltd.</i>	<i>2010-11</i>
<i>Soffpro Technologies Pvt .Ltd.</i>	<i>2010-11</i>
<i>Transmission Mercandise Pvt. Ltd.</i>	<i>2010-11</i>
<i>Join Fashion Pvt. Ltd.</i>	<i>2010-11</i>
<i>Citylife Promoters Pvt. Ltd.</i>	<i>2010-11</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>10000000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>2500000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>5000000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>2500000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>10000000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>10000000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>5000000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>5000000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>5000000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>5000000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>2500000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>500000</i>
<i>Mahalaxmi Bullions Pvt. Ltd.</i>	<i>63000000"</i>

13. On the basis of aforesaid material supplied by the A.O. of CC-16, New Delhi in case of Himanshu Verma, entry operator, which has not been controverted by the assessee in any manner whatsoever, the A.O. has made the addition which has been affirmed vide impugned order.

14. In the backdrop of aforesaid undisputed fact and the facts and circumstances of this case on record, the first question arises for determination in this case is **'as to whether the assessee has been provided**

with an opportunity to discharge initial onus u/s 68 of the Act'. We are of the considered opinion that the assessee has failed to discharge the initial onus to explain the accommodation entry by proving the creditworthiness of parties and genuineness of the transaction despite being provided with ample opportunity for the following reasons:

14.1 that in response to the notice issued u/s 143(2), the assessee has been duly represented before the A.O. through Shri Atul Khandelwal, CA/AR on 16.01.2014 and he has filed some details and the case was adjourned to 17.01.2014;

14.2 that on 17.01.2014, Shri Atul Khandelwal, CA/AR of the assessee did not attend the proceedings which was adjourned to 13.03.2014, on which date Ld. A.R. of the assessee appeared and he was specifically called upon to file requisite documents as detailed in para 10 above;

14.3 that the assessee through his AR has not preferred to file the requisite documents on 14.03.2014 despite the fact that he was told not to grant any further time as it being time bound matter. Ld. A.R. of the assessee attended the proceedings and merely filed his power of attorney on 14.03.2014. Consequently, A.O. passed the assessment order on the basis of material available on record;

14.4 that the assessee preferred an appeal challenging the order of A.O. before Ld. CIT(A), which remained pending for a period of about 5 months but he has not preferred to file any additional documents to discharge its onus u/s 68 of the Act and then filed the present appeal before the Tribunal on 23.07.2015;

14.5 that all of a sudden, the assessee filed application for admission of additional documents under Rule 29 of ITAT Rules 1963 on the sole ground

that Shri Atul Khandelwal, CA/AR of the assessee misguided the assessee and has also not filed requisite documents and did not respond to the notice of the A.O. in spite of submitting the same to him;

14.6 that there is not an iota of material on record to even prima facie make out if assessee has been misguided by Shri Atul Khandelwal CA/AR of the assessee or that he was provided with the requisite documents to be filed with the A.O. or Ld. CIT(A);

14.7 that for arguments sake, if it is assumed that the assessee has been misguided by Shri Atul Khandelwal, his CA/AR before A.O., he (assessee) would have rectified his mistake during the pendency of his appeal before Ld. CIT(A) but the assessee has continued to get professional advice from his CA/AR during pendency of appeal before CIT(A). So, it is an afterthought on the part of assessee to file application for admission of additional documents/evidence by preparing some bogus documents;

14.8 that even no such ground has been raised by the assessee before Ld. CIT(A) that he has been misguided by his AR and as such, could not discharge his onus u/s 68 of the Act;

14.9 that Ld. CIT(A) in para 4 of the impugned order has discussed the chronology of proceedings conducted by the A.O. during the assessment proceedings, which goes to prove that ample opportunities spread into about two months were provided to the assessee but he has not come up with any defence to controvert the material on the basis of which assessment has been made vide order dated 29.03.2014;

14.10 that the application moved by the appellant under Rule 29 of ITAT Rules 1963 for admission of additional documents, is not maintainable on the ground that it is proved beyond reasonable doubt that he has been

provided with proper opportunity of being heard during proceedings before A.O. as well as during pendency of his appeal before Ld. CIT(A);

14.11 that the appellant/assessee has not even preferred to disclose as to what sort of misguidance was given to him by his CA/ARA Shri Atul Khandelwal nor any complaint against his CA/AR has been filed by the assessee at any point of time;

14.12 that the judgement cited **RSS Shamugam Pillai & Sons vs CIT (Mad.) 95 ITR 109** relied upon by the Ld. A.R. of the assessee is not applicable to the facts and circumstances of this case as the application under consideration itself has been filed by concealing the material facts as well as on the basis of distorted facts;

14.13 that the judgment cited as **Smt. Prabhawati S. Shah Vs CIT 231 ITR 01(supra)** is not applicable to the facts and circumstances of this case because in the instant case, undisputedly no such application was filed by the assessee before the A.O. or Ld. CIT(A).

14.14 that the judgment cited as **RSS Shamugam Pillai & Sons vs CIT (Mad.) 95 ITR 109 (supra)** is also not applicable to the facts and circumstances of this case for two reasons- one: that the application is moved by the appellant on the basis of misleading fact that he has been misguided by Shri Atul Khandelwal, CA/AR, who has continuously represented the assessee on each and every hearing before the A.O. as well as Ld. CIT(A) and against whom no complaint has ever been filed by the assessee; two: that there is not an iota of evidence on record as to what were the circumstances which have restrained the appellant/assessee from filing such application before the A.O. as well as Ld. CIT(A).

14.15 that the contention of Ld. counsel for the assessee that assessee should be given fair opportunity to produce all documents before the A.O. as he had no fault in providing the details called for, is not tenable in view of law laid down by Hon'ble ITAT, Delhi Benches 'I' Bench (Third Member), in the case cited as **112 ITD 205, Zuari Leasing & Finance Corpn. Ltd Vs ITO**, the operative part of the order is reproduced as under:

“The primary power, rather obligation of the Tribunal is to dispose of the appeal on merits. The incidental power to remand, is only an exception and should be sparingly used when it is not possible to dispose of the appeal for want of relevant evidence, lack of finding or investigation warranted by the circumstances of the case. Remand in a casual manner and for the sake of remand only or as a short cut, is totally prohibited. It has to be borne in mind that litigants have to wait for long to have fruit of legal action and expect the Tribunal to decide on merits. It is, therefore, all the more necessary that mater should be decided on merits without following one of the parties before the Tribunal to have another inning, particularly when such party had full opportunity to establish its case. Unnecessary remands, when relevant evidence is on record, belies litigant's legitimate expectations and is to be deprecated. Having regard to the aforesaid principle, it was necessary to look into record to see whether there was sufficient material on record to dispose of the issue on merit and, hence, there was no need to remand the issue to provide a fresh innings to the revenue.”

14.16 that the Hon'ble Tribunal while deciding the aforesaid case, relied upon the judgement cited as **M. G. Shahani & Co. (Delhi) Ltd. Vs Collector of Central Excise 1994 (73) ELT 3 (S.C.)** wherein it is observed as under:

“The complaint of the appellant before us, for which we find sufficient justification, is that the Tribunal should have itself gone through the evidence and rendered a finding because all

the relevant materials were before the Tribunal. To our mind, it appears that the Tribunal has adopted an easy course in remanding the matter. The remand was superfluous when the parties have argued the matter at length. To characterize the order of the Collector as laconic is not correct since he has written a detailed order including reference to relevant case law.

The Tribunal has adopted an easy course of remanding the matter to Collector, when it could have decided the same. The remand was superfluous when the parties have argued the matter at length and relevant material for decision was available on record. The CEGAT should have itself analysed the evidence and given a factual conclusion."

14.17 that Hon'ble High Court of Karnataka in the case cited as **Karnataka Wakf Board Vs State of Karnataka AIR 1996 Kar. 55** also held that:

"Where the party had an opportunity of adducing evidence in the case but with open eyes failed to adduce that evidence, the case should not be remanded to give a second chance to the party to adduce that evidence. The policy of the law is that once that matter has been fairly tried between the parties, it should not, except in special circumstances, be reopened and retired. In a recent decision their Lordships of the Supreme Court laid down that power to order retrial after remand, where there had already been a trial on evidence before the court of first instance, cannot be exercised merely because the Appellate Court is of the view that the parties who could lead better evidence in the Court of first instance have failed to do so."

14.18 that the Hon'ble Tribunal in the case **Zuari Leasing & Finance Ltd. (supra)** has also relied upon the judgements cited as **Asstt. CIT v. Anima Investment Ltd [2000] 73 ITD 125 (Delhi)**, **Asstt. CIT v. Arunodai Apartments (P.) Ltd [2002] 123 Taxman 48 (Gau.) (Mag.)**, **Smt. Neena Syalv. Asstt. CIT[1999] 70 ITD 62 (Chd.)**, **Rajesh Babubhai Damania v. CIT[2001] 251 ITR 5411 (Guj.)** and **CIT v.**

Harikishan Jethalal Patel [1987] 168 ITR 4722 (Guj.) wherein it is held that powers of the Tribunal in the matter of setting aside an assessment are large and wide, but these powers cannot be exercised to allow the A.O. an opportunity to patch up the weak parts of this case and to fill up the omission by giving another innings.

14.19 that following the ratio of judgement in **Zuari Leasing & Finance Ltd. (supra)**, wherein the Tribunal has thrashed the controversy threadbare by relying upon the law laid down by Hon'ble Supreme Court as well as Hon'ble High Courts that remand of the case at 2nd appellate stage for the purpose of de novo trial is an exception and it can never be made to fill up the lacuna or to decide the controversy for which sufficient opportunities have already been afforded to the assessee.

14.20 that in the instant case, since the assessee has been provided with fair and complete opportunity by the A.O. to produce specific documents to arrive at a logical conclusion, the assessee was given due opportunity of being heard by Ld. CIT(A) but he has not preferred to supply the requisite documents, nor filed any application to produce additional documents rather come up before the tribunal with a flimsy ground that he has been misguided by his CA/AR and as such, he could not produce the requisite documents, no further opportunity by way of remand can be given to the appellant.

15. Furthermore, on the basis of information supplied by the A.O. of CC-16, New Delhi, in case of Shri Himanshu Verma, an entry provider, who has admitted during search proceedings that he (Shri Himanshu Verma) has provided accommodation entry of more than Rs.12.60 crores to the appellant as well as their group companies and consequently made addition of

Rs.57,50,000/- on account of share capital, share application money and addition of Rs.4,72,50,000/- on account of security premium. Similarly assessee has failed to file any confirmation of creditors to explain the credit of Rs.1,14,31,490/- and the same remained unverifiable and the A.O. has made addition of Rs.1,14,31,490/- in the income of the assessee for non filing of requisite information and books of account for verification, 5% of purchases and 10% on expense claimed in the P & L account have been disallowed which come to Rs.3,07,16,874/- (Rs.3,04,30,970/- being 5% of purchase at Rs.60,86,19,398/- + Rs.2,85,904/- i.e. administrative and other expenses claimed in the P & L account @ 10% at Rs.28,59,039/-) and consequently made the disallowance of Rs.3,07,16,874/- and assessed the total income to the tune of Rs.9,58,51,883/-. Even otherwise it would not be professionally feasible for A.O. to scan the so called record now set up by the assessee after a gap of more than four years.

16. Ld. CIT(A) after providing proper opportunity of being heard to the appellant/assessee affirmed the addition by passing reasoned order. Hence, finding no illegality or perversity, we are not inclined to interfere into the impugned order.

17. Consequently appeals under consideration are hereby dismissed.

18. Order pronounced in the open court on 12th Oct., 2015.

Sd./-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER
Date: 12.10.2015
Sp

Sd./-
(KULDIP SINGH)
JUDICIAL MEMBER

Copy forwarded to:-

1. The appellant
2. The respondent
3. The CIT
4. The CIT (A)-, New Delhi.
5. The DR, ITAT, Loknayak Bhawan, Khan Market, New Delhi.

True copy.

By Order
(ITAT, New Delhi).

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	24/9		Sr. PS/PS
2	Draft placed before author	28,29,29/9,11,12,1212,12		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS	12/10/2015		Sr. PS/PS
6	Kept for pronouncement	12/10		Sr. PS/PS
7	File sent to Bench Clerk	13/10		Sr. PS/PS
8	Date on which the file goes to Head Clerk			
9	Date on which file goes to A.R.			
10	Date of Dispatch of order			