

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

**BEFORE SHRI G.D. AGRAWAL, HON'BLE PRESIDENT  
AND  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**ITA No. 926/Del /2012  
Assessment Year: 2009-10**

Ravi Bajaj Design Pvt. Ltd., N-205, Greater Kailash-I, New Delhi-110048 (PAN: AABCR7849G)	vs	ITO (CPC) , Post Bag No.1, Electronic City, Bangalore.
(Appellant)		(Respondent)

Appellant by : Shri Rahul K. Srivastava, CA  
Respondent by: Shri Atiq Ahmad, Sr. DR

**Date of Hearing : 05.09.2017  
Date of Pronouncement: 04.10.2017**

**ORDER**

**PER SUDHANSHU SRIVASTAVA, J.M.**

This appeal has been preferred by the assessee against the order passed by the ld. CIT(A)-XVIII, New Delhi wherein vide dated 1.12.2011, the ld. CIT(A) has dismissed the assessee's appeal challenging the prima facie adjustment made by the Central Processing Centre (CPC) Bangalore u/s 143(1) of the Income Tax Act, 1961 by making an addition of Rs. 8,31,925/- to the declared

income of Rs. 10,84,781/- without specifying the nature and details of addition made. The grounds of appeal preferred by the assessee read as under:-

*“1. The appellant prays that the intimation framed under section 143(1) of the Act be amended since it is not based on facts completely.*

*2. Income Tax Officer (CPC) erred in disregarding the basic conditions prescribed for making an intimation under section 143(1) and the relevant intimation is not based completely as per ITR filed;*

*3. AO (CPC) also erred in exceeding his powers, authority and jurisdiction u/s 143(1) of the Income Tax Act, 1961 in processing the return by making addition of Rs.8,31,925/- to the declared income of Rs. 10,84,781/- without specifying the nature and detail of addition made.*

*4. The Ld.CIT (A) has confirmed the addition of Rs.8,31,925/- after ignoring the facts that :The Appellant Company has declared income of Rs.10,84,781 in the ITR-6.*

*5. Appellant is a private limited company and engaged in the business of fabrication & sale of designed readymade garments. The company filed its return on 28<sup>th</sup> September-2009 declaring net taxable income of Rs. 10,84,781/-. The return has been processed by Central Processing Centre, Bangalore vide order dated 18<sup>n</sup> September-2010 by assessing the income from business at Rs. 19,16,706.00 as against income of Rs.10,84,781.00.*

*AO (CPC) has picked up figure of Rs.8,31,926/- for addition whereas it has been shown as “Deferred Tax Liability” in the Profit & Loss Account of the A.Year 2009-10.*

*Therefore, our contention is that “Deferred Tax Liability” of Rs.8,31,926.00 can neither be added to the declared*

*income of Rs.10,84,781.00 nor treated as taxable income.*

*Ld.CIT(A) and Assessing Authority has not examined carefully Profit & Loss Account, Audited Balance Sheet and also ignored all the above true facts & dismissed the appeal.*

*6. The appellant prays that the said addition of Rs.8,31,926/-be deleted.*

*7. The Appellant craves to add to alter or amend the above grounds of appeal at any time before or during the hearing of this appeal.”*

2. At the outset, the ld. AR submitted an application for adjournment which we have rejected and we proceed to hear both the parties on merits.

3. The ld. AR submitted that the assessee company had filed its return of income online on 29.09.2009 declaring a taxable income of Rs. 1,08,4781/- and the return was processed u/s 143(1) of the Act on 18.9.2010 by computing the income at Rs. 19,16,706/-. He drew our attention to the intimation u/s 143(1) received from CPC Bangalore and submitted that the addition had been made without specifying the nature and details of the adjustment made. It was submitted that as per the scheme of the Act, only prima facie adjustment was permissible and that too, in respect of any arithmetical error in the return or in respect of any claim, the incorrectness of which was apparent

from any information in the return. It was also submitted that if there were any debatable claims, they cannot be made the subject matter of any prima facie adjustment. It was also submitted that if the assessing authority was not inclined to accept the return submitted by the assessee, the proper course should have been to issue a notice to the assessee u/s 143(2) of the Act. It was submitted that in view of the settled legal position, the adjustment made without specifying the nature of the adjustment was patently wrong and liable to be deleted.

4. Learned Departmental Representative supported the order of the Id. CIT (A) but could not refute the assertion of the Id. AR that the nature and details of the adjustment made were not discernible from the intimation u/s 143(1).

5. We have heard the rival submissions and carefully perused the relevant material placed on record. A bare perusal of section 143(1) makes it abundantly clear that only two types of adjustments are permitted u/s 143(1) of the Act and they are: i) any arithmetical error in the return and; ii) an incorrect claim, if such incorrect claim is apparent from any information in the return filed by the assessee in this case. Page 1 of the intimation shows income from business or profession as provided by the

taxpayer in return of income at Rs. 10,84,781/- and the income from business or profession as computed u/s 143(1) at Rs. 19,16,706/- but no further information or the nature of adjustment is discernible from the said intimation. The ITAT Indore Bench in the case of ACIT vs. Som Distilleries & Breweries Ltd. in ITA No. 248/Ind/2012 dealt with a similar issue and adjudicated as under:

*“.....As rightly submitted on behalf of the appellant in the impugned intimation u/s 143(1) of the Act, the reasons for not allowing the aforementioned claim, were not assigned. From the return of income and its accompanying documents, it is seen that the appellant had correctly computed the total income at nil figure and the ITO, CPC had not assigned any justification for not allowing set off of the brought forward losses of Rs. 7,95,38,033/- to be set off against the income of the current year. The factual infirmity, if there be any, in the computation of total income filed by the appellant, was also not specified by the A.O. Section 143(1) does not authorise making such non speaking unilateral adjustments. It is trite that u/s 143(1)(a) prima facie adjustments is permissible only in respect of claims, the incorrectness of which is apparent from information in the return. Debatable claims are not liable to such prima facie adjustments. In the case of the appellant, under consideration, there is nothing in the return or in the computation of total income to suggest that the impugned*

*claim of set off of brought forward losses, was prima facie incorrect. In the given facts and circumstances of the case, the denial of the impugned claim, in my considered view, could be done only after issue of notice to the appellant, since the non-speaking unilateral denial of the impugned claim was clearly outside the ambit of prima facie adjustments envisaged in section 143(1)(a) of the Act and that the A.O. did not have sufficient material to hold that the impugned claim was prima facie inadmissible. Under the provisions of section 143(1)(a) of the Act, the A.O. was not entitled to allow or disallow the claim but could only make adjustment on a prima facie scrutiny of the return and the accompanying documents filed by the appellant. As already stated, since the impugned non-speaking unilateral denial of the appellant's claim, was without issue of notice to the appellant, in my considered view, the A.O. travelled beyond the scope of the powers conferred upon him by section 143(1)(a) and thus wrongly disallowed the impugned claim which by no stretch of imagination could come within the ambit of prima facie adjustments u/s 143(1)(a) of the Act.*

*1.2 The relevance of section 143(1)(a), under which the A.O. was acting, could not have been overlooked. The importance of scope of powers u/s 143(1)(a) lies in severe limitation of powers of the A.O. under this section. Any relief that he can grant or the disallowance he can make, under this section must be solely on the basis of material on record. To that extent i.e. "determination of liability as ascertainable from the*

*return filed", this section has been held to be somewhat analogous to section 154 of the Act. In Khatau Junkar Ltd. & Anr. Vs. K.S.Pthania, DCIT & Anr. (1992) 196 ITR 55 (Bom), the Bombay High Court explained the scope of these powers as follows : "In fact the wording of this provision itself makes this very clear. Under clause (ii) of the proviso to section 143(1)(a), any loss carried forward, deduction allowance or relief has to be allowed on the basis of the information available in such return or accounts or documents accompanying it. Similarly, under clause (iii) of the proviso, to disallow any deduction, allowance or relief claimed, such deduction, allowance or relief must be such as is, on the basis of the information available in the return, accounts or documents, prima facie inadmissible. The A.O., therefore, has no power to go beyond or behind the return, accounts or documents, either in allowing or in disallowing any such deduction, allowance or relief.*

*1.3 In view of the above analysis, in my considered view, the A.O. could not have made the impugned prima facie adjustment canvassed by the appellant within the limited scope of his powers u/s 143(1)(a) of the Act. From the return and its accompanying documents, the impugned claim of the appellant was correct and hence was not prima facie disallowable. The A.O. is accordingly directed to allow the impugned claim of the appellant by deleting the aforementioned unlawful prima facie adjustment and consequently to accept the income return at nil."*

6. Although the ld. CIT (A) has, during the course of appellate proceedings, examined the issue and has also discussed some errors in the computation of income filed by the assessee but it is very much evident that these errors are not errors or mistakes which were apparent from any information in the return and, therefore, the action of the CPC in making these prima facie adjustment is patently wrong. We agree with the contentions of the ld. AR that proper recourse would have been to issue a notice u/s 143(2) of the Act in case further clarification/explanation was required from the assessee. Therefore, we set aside the order of the ld. CIT (A) and direct the Assessing Officer to delete this addition.

7. In the result, the assessee's appeal stands allowed.

The order is pronounced in the open court on 4<sup>th</sup> October, 2017.

**Sd/-**  
**(G.D. AGRAWAL)**  
**PRESIDENT**

**Sd/-**  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

Dated: 4<sup>th</sup> October, 2017

'GS'

Copy forwarded to:

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

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By Order

**ASSISTANT REGISTRAR**