

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

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**I.T.A. No. 763/Del/2012
Assessment Year: 2007-08**

SMT. SUDESH RANI,
PROPRIETOR,
M/S AMBA MARBLE INDUSTRIES,
D-16, INDUSTRIAL ESTATE,
ROORKEE
(PAN: ADJPK2877M)
(ASSEESSEE)

vs. ITO, WARD-2,
ROORKEE

(RESPONDENT)

Assessee by: Sh. Somil Aggarwal, Adv.
Revenue by: Sh. Koushlendra Tiwari, Sr. DR

ORDER

PER H.S. SIDHU, JM

This appeal is filed by assessee against the Order dated 02.11.2011 passed by the Ld. CIT(A)-II, New Delhi relating to Assessment Year 2007-08 on the following grounds:-

“1. That on the facts and circumstances of the case and in law, the order dated 02.11.2011 passed u/s. 250(6) of the Act by the CIT(A)-II, Dehradun is erroneous, arbitrary, based on surmises and conjectures, assuming incorrect facts and hence is illegal and bad in law.

2. *That on the facts and circumstances of the case, and in law, the Ld. CIT(A) has erred in confirming the additions of Rs. 1,29,714/- (on account of stock shortage), Rs. 3,75,000/- (on account of unexplained expenditure, being certain entries recorded in a small diary owned by Sh. Naveen Kapania, co-owner of the appellant's residential premises) and Rs. 72,000/- (on account of salary paid to Mr. Adarsh Kapania), without appreciating the facts and evidences submitted before him as well as the AO.*

The above grounds of objections are without prejudice to each other.

That the appellant reserves its right to add, alter, amend or withdraw any ground of appeal either before or at the time of hearing.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. At the time of hearing, Ld. Counsel of the Assessee has stated that exactly the similar issues have already been adjudicated and decided in the sister concern of the assessee i.e. in the case of Sh. Subhash Chand Kapania vs. ITO, Ward-2, Roorkee in ITA No. 762/Del/2012 (AY 2007-08) by the ITAT,

Delhi 'G' Bench vide order dated 21.4.2017. Hence, he requested that the issues in dispute may be set aside to the file of the Ld. CIT(A) with the directions to decide the same afresh, in view of the directions given by the ITAT, Delhi 'G' Bench vide order dated 21.4.2017, as mentioned in aforesaid case. In this behalf, he attached the copy of the order dated 21.4.2017 for ready reference.

4. Ld. DR did not raise any objection to the proposition made by the Ld. Counsel of the assessee.

5. We have heard both the parties and perused the records, especially the impugned order passed by the Ld. CIT(A). After examining the impugned order, we are of the considered view that exactly the similar issues have already been adjudicated and decided in the case of Sh. Subhash Chand Kapania vs. ITO, Ward-2, Roorkee in ITA No. 762/Del/2012 (AY 2007-08) [*which is a sister concern of assessee*] by the ITAT, Delhi 'G' Bench vide order dated 21.4.2017 in which the ITAT has set aside the similar and identical issues to the file of the CIT(A) for deciding the same afresh. Keeping in view of the facts and circumstances of the case, the issues in dispute are set aside to the file of the Ld. CIT(A) with the directions to decide the same afresh, in view of

the directions given by the ITAT, Delhi 'G' Bench vide order dated 21.4.2017 in the case of Sh. Subhash Chand Kapania vs. ITO, Ward-2, Roorkee in ITA No. 762/Del/2012 (AY 2007-08) *[which is a sister concern of assessee]*. Needless to say that the assessee should be given adequate opportunity of being heard.

6. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the Open Court on 04/10/2017.

Sd/-

**[PRASHANT MAHARISHI]
ACCOUNTANT MEMBER**

Sd/-

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

Date 04/10/2017

"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

