

**In the Income-Tax Appellate Tribunal,
Delhi Bench 'E', New Delhi**

**Before : Shri Bhavnesb Saini, Judicial Member And
Shri L.P. Sahu, Accountant Member**

**ITA No. 6528/Del./2015
Assessment Year: 2011-12**

Income-tax Officer, Ward 7(3), New Delhi. (Appellant)	vs.	Dhampur Polymers Pvt. Ltd., A-96/3, Saket, New Delhi. PAN – AAACD4854G (Respondent)
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Appellant by	Ms. Rakhi Vimal, Sr. DR
Respondent by	Sh. K.R. Manjani, Advocate

Date of Hearing	25.09.2017
Date of Pronouncement	23.10.2017

ORDER

Per L.P. Sahu, A.M.:

This is an appeal filed by the Revenue against the order of ld. CIT(A)-3, Delhi dated 10.09.2015 for the assessment year 2011-12 on the following grounds:

1. *"Ld. CIT(A) erred in law and on facts of the case in deleting the addition of Rs. 5,00,000/- made by the Assessing Officer u/s 68 of the IT Act, 1961 on account of non furnishing of documentary evidence of investment made by the assessee in cash."*
2. *"Ld. CIT(A) erred in law and on facts of the case in deleting the addition of Rs. 43,96,085/- made by the Assessing Officer on account of unverified sundry creditors."*
3. *"Ld. CIT(A) erred in law and on facts of the case in admitting additional evidence like delivery slip of speed post and confirmation*

without admitting them as provided in sub rule 2 & 3 of rule 46A of the IT Rules, 1962."

2. The brief facts relevant to ground No. 1 are that on being asked to explain the source of increase in issued and subscribed capital, the assessee submitted that investment of Rs.5,00,000/- was made by Sh. Satish Chandra, the director of the assessee company. Since the assessee did not furnish any documentary evidence in this regard, the AO summoned the Director Shri Satish Chandra u/s. 131. In response, Director appeared and in his statements recorded on oath, he admitted to have invested Rs.5 lacs in cash out of his agricultural income. In support of the agricultural receipts, the director submitted that he had given his agricultural land for tilling on Batai to one Subash Chandra Pandey and a letter dated 27.03.2011 was filed showing the details of payments made by Shri Subhash Chandra Pandey to the Director of the company against agricultural produce, as mentioned at page 2 of the assessment order. This evidence, being a simple letter was not admitted by the AO as valid evidence as the same did not contain the PAN or address of Sh. Subhash Chand Pandey. He, therefore, added the sum of Rs.5.00 lacs to the total income of the assessee u/s. 68 of the Act. The Id. CIT(A) deleted the addition vide impugned order, which has been challenged by Revenue by way of ground No. 1.

3. The ld. DR reiterating the contents of the assessment order, submitted that the impugned addition was made u/s. 68 of the Act for want of cogent evidences before the AO, whereas the ld. CIT(A) has wrongly deleted the addition after considering various evidence alleged placed before him. The ld. AR of the assessee, on the other hand, relied on the order of ld. CIT(A).

4. We have heard the rival submissions and perused the record. A perusal of the impugned order shows that the assessee in its written submitted referred to the following evidences submitted by the assessee :

(i). Copies of his IT returns showing agricultural income of Rs.5,30,170/- in A.Y. 2010-11, Rs.2,91,590/- in A.Y. 2009-10 and Rs.2,63,670/- in A.Y. 2008-09.

(ii). The assessee also produced Shri Subhash Chandr Pandey whom the directors had given his agricultural land for tilling.

(iii). Proof of ownership of land

(iv). Letter taken from Shri Subhash Chandra Pandey about agriculture income given to the director of assessee company.

(v). Ld. AO had verified the factum of agricultural income from his income tax record.

5. Considering all these facts and evidence, the ld. CIT(A) has deleted the addition. However, on perusal of the assessment order, we find no reference of these evidences to have been submitted before the AO. The assessee had

mentioned in his reply that Subhash Chand Pandey was produced but this fact is nowhere mentioned in the assessment order. Keeping in view the fact that the impugned investment is shown to have been made in cash and in presence of aforesaid facts, we deem it expedient in the interest of justice that the matter should be remitted to the file of AO for verification and examination of the evidences which the assessee deems necessary to be submitted before the AO in support of its claim. We, therefore, remit this issue to the file of AO for deciding the issue afresh after verification and thorough enquiry/examination after giving reasonable opportunity of being heard to the assessee.

6. The second issue relate to deletion of addition of Rs.43,96,085/- made on account of unverified sundry creditors. The assessment order reveals that the Assessing Officer made the addition of this amount on the premise that while calling for the information u/s. 133(6) of the Act from 10 creditors, following creditors could not be verified :

i).	M/s. V.S.S. Sales	Rs.10,12,281/-
ii).	M/s. Vinayak Sales	Rs. 14,84,700/-
iii).	M/s. NRP Packers Pvt. Ltd.	Rs.15,48,622/-
iv).	M/s. India Sales Corpn.	Rs.3,45,671/-
v).	Difference in M/s. DRJ Chemicals P. Ltd.	Rs.4,811/-

		Rs.43,96,085/-

The Id. CIT(A) deleted the addition on the ground that the parties appearing at serial No. i) to iii), which as per AO were not found verifiable, had dispatched their reply on 22.02.2014 which had been delivered by the Speed post in the office of the Assessing Officer on 27.02.2014. Postal evidence were submitted before the Id. CIT(A) as additional evidence. However, nothing is reflected in this regard in the assessment order. Moreover, the fact remains that the replies of the three sundry creditors neither stood examined by the AO nor the Id. CIT(A) has given any observation as to what reply was sent by the three creditors to the AO. We, therefore, remit this issue also to the file of Assessing Officer to examine the alleged reply of the sundry creditors which the assessee filed before the Id. CIT(A) as additional evidence. Accordingly, the matter is restored to the AO for deciding the issue afresh after proper consideration of reply and evidences which the assessee deems necessary to be furnished before the AO. Needless to say, the assessee shall be given reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 23.10.2017.

Sd/-

(Bhavnes Saini)
Judicial member

Sd/-

(L.P. Sahu)
Accountant Member

Dated: 23.10.2017

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