

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,  
NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No. 3090/DEL/2013  
[A.Y 2009-10]**

Shri Devi Dass Garg  
G-15, Maharani Bagh  
New Delhi

Vs.

The Dy. C.I.T  
Central Circle 12  
New Delhi

PAN : AACPD 7283 Q

[Appellant]

[Respondent]

**Date of Hearing : 14.01.2019  
Date of Pronouncement : 14.01.2019**

Assessee by : Shri D.C. Agrawal  
Shri R.N. Poonia, Advs

Revenue by : Ms.Shefali Swaroop, CIT-DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

This appeal by the assessee is preferred against the order of the  
CIT(A)- 31, New Delhi dated 08.03.2013 pertaining to A.Y 2009-10.

2. The sum and substance of the grievance raised by the assessee is that the CIT(A) erred in confirming the addition of Rs. 14,48,100/- made by the Assessing Officer on account of unexplained cash u/s 69A of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'].

3. A search and seizure operation u/s 132 of the Act was conducted at the premises of the assessee on 31.07.2008. Cash of Rs. 14,48,100/- was found and seized. During the course of scrutiny assessment proceedings, the assessee was asked to explain the cash so found. The assessee explained that the said cash is from M/s Narsi Iron and Steels Pvt Ltd. The explanation of the assessee did not find favour with the Assessing Officer who proceeded by making addition of Rs. 14,48,100/- as unexplained cash found during search operation.

4. The assessee carried the matter before the CIT(A), but without any success.

5. Before us, the ld. AR pointed out that the said cash has come from M/s Narsi Iron and Steels Pvt Ltd, Mathura. It is the say of the ld. AR that the said cash is reflected in the balance sheet of the said company under the head "Loans and Advances". The ld. AR pointed

out that under the Schedule 'Advance Recoverable in cash or in kind as on 31.03.2009' at Item No. 8, cash seized by the Income tax Department has been shown at Rs. 15,46,100/-. The ld. AR stated that these facts have not been properly appreciated by the lower authorities. Therefore, the addition deserves to be deleted.

6. Per contra, the ld. DR strongly supported the findings of the Assessing Officer. It is the say of the ld. DR that on the date of search, the assessee failed to explain the source of cash found from his premises and, therefore, the addition made by the Assessing Officer is justified.

7. We have carefully considered the orders of the authorities below. We have also considered the relevant documentary evidence brought on record. It is true that in the Balance Sheet of M/s Narsi Iron and Steels Pvt Ltd under the head 'Advance Recoverable', cash seized by the Income tax Department is shown at Rs. 15.48 lakhs. But this is as on 31,03,2009 whereas the date of search is 31.07.2008. In our considered opinion, the assessee should bring cogent material evidence on record to show that as on date of search i.e. 31.07.2008, M/s Narsi Iron and Steels Pvt Ltd was having at least this much of cash in hand

with it and the same was given to the assessee who is the promoter of the company. We, therefore, restore this issue to the file of the Assessing Officer. The assessee is directed to furnish relevant documentary evidence to demonstrate that as on date of search i.e. 31.07.2008, the said company was having sufficient cash in hand to show that the cash found from the premises of the assessee was out of cash in hand of the company. The Assessing Officer is directed to verify the same and decide the issue afresh as per law after affording reasonable opportunity of being heard to the assessee.

8. In the result, the appeal of the assessee in ITA No. 3090/DEL/2013 is treated as allowed for statistical purposes.

**The order is pronounced in the open court on 14.01.2019.**

**Sd/-**

**[SUCHITRA KAMBLE]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 14<sup>th</sup> January, 2019

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
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Date on which the file goes to the Head Clerk	
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