

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**(DELHI BENCH 'A' : NEW DELHI)**  
**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER**  
**AND**  
**SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No. 2393/Del/2016  
Assessment Year: 2012-13

ACIT, CIRCLE 11(2),  
NEW DELHI

**(APPELLANT)**

VS. H.R. POLYCOATS PVT. LTD.  
4257/2, JAI MATA MARKET,  
TRI NAGAR, NEW DELHI – 35  
(PAN AACCH2278J)  
**(RESPONDENT)**

Revenue by : Sh. C.P. Singh, Sr. DR.

Assessee by : Sh. D.K. Jain, CA & Sh. Kartik Jain, CA

**ORDER**

**PER H.S. SIDHU, JM**

The Revenue has filed the Appeal against the Order dated 25.2.2016 of the Ld. CIT(A)-4, New Delhi pertaining to assessment year 2012-13 on the following grounds:-

1. Whether on the facts and circumstances of the case and in law, the Id. CIT(A) erred in admitting the additional evidence ignoring the fact that assessee was given full opportunity during the assessment proceedings.
2. Whether on the facts and circumstances of the case and in law, the Id. CIT(A) erred in deleting the estimate made by the AO rejecting books of account as the assessee was not submitting the details of stock.
3. "Whether on the facts and circumstances of the case, the CIT(A) was correct in holding that the affidavits filed by the AR regarding its attendance and submissions

not recorded by the AO is correct and thereby granting relief to the assessee, in spite of the fact that none of the letters filed by the assessee has the mention of the previous hearings and the fact the AO was considerate enough to grant 4 adjournments to the assessee back to back during the course of assessment proceedings and also the fact that the assessee has filed certain information during the course of proceedings in the regular dak of the AO."

4. "Whether on the facts and circumstances of the case, the CIT(A) was correct in ignoring the fact that the assessee had failed to file a single original confirmation of the parties in question and only photocopies were filed which clearly were not bonafide evidences or compliance to the question raised during the course of assessment proceedings and therefore no relief could have been granted to the assessee and also considering the fact that even in additional evidence no proper confirmations were filed as such before the CIT(A) and also considering the strange fact that during the course of assessment proceedings certain 133(6) were issued and came back unserved but still there was compliance made by these parties before the AO."

5. "Whether on the facts and circumstances of the case, the CIT(A) was correct in holding that the assessee should have been completed by the accepting the books result of the company because of past history, the assessee being a company and the VAT assessment of credit of taxes was made by completely ignoring the fact that not a single bonafide confirmation of creditors of raw materials as well as expenses (only photocopies) were submitted either before the AO or before the CIT(A) in the

appellate proceedings, in spite of several opportunities granted to the assessee."

6. Whether on the facts and circumstances of the case, the CIT(A) was correct in not giving reasonable opportunity to the AO u/s. 46A for submitting remand report, on the so called additional evidences filed by the assessee, which have not been even admitted by the CIT(A) by passing a speaking order u/r. 46A(2) and also when the CIT(A) itself has not examined any of the additional evidences in a speaking manner to a conclusion to grant relief to the assessee.

7. The appellant craves leave, to add, alter or amend any ground of appeal raised above at the time of the hearing.

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

3. At the time of hearing, Ld. DR submitted that Ld. CIT(A) has erred in not giving reasonable opportunity to the AO u/s. 46A for submitting remand report, on the so called additional evidences filed by the assessee, which have not been even admitted by the CIT(A) by passing a speaking order u/r. 46A(2) and also when the CIT(A) itself has not examined any of the additional evidences in a speaking manner to a conclusion to grant relief to the assessee. Hence, he requested that this matter may be set aside to the file of the Ld. CIT(A) for fresh adjudication and pass a speaking order, after giving

adequate opportunity of being heard to the AO by calling the remand report.

4. On the other hand, Ld. Counsel for the assessee has relied upon the orders of the Ld. CIT(A) and stated that he has passed a well reasoned order, which does not need any interference. He further submitted that Ld. CIT(A) has admitted the additional evidences in accordance with law. However, for the sake of convenience, the Ld. counsel for the assessee has filed a Paper Book containing pages 1-383 i.e. explanation to grounds of appeal; application for additional evidences filed before the CIT(A); documents annexed to the application for additional evidences before CIT(A) (a) cover letter of submissions filed before the AO (b) affidavit by the Authorised Representative and Director of the assessee (c) Sales tax assessment order of the assessee for AY 2012-13; (d) job work bills, challans, fuel bills and stock register (e) order sheet of the assessment proceedings and notices issued by the AO.

5. We have heard both the parties and perused the records. After perusing the relevant records available with us alongwith the orders of the revenue authorities as well as the Paper Book filed by the Ld. counsel for the assessee which also contains the application for additional evidences filed before the CIT(A) and annexures thereto. After perusing the finding of the Ld. CIT(A), we are of the considered view that Ld. CIT(A) has not given reasonable opportunity to the AO u/R. 46A for submitting his remand report, on the additional

evidences filed by the assessee, which have also not been even admitted by the CIT(A) by passing a speaking order u/r. 46A(2), which is not tenable. Therefore, in the interest of justice, we are setting aside the issues in dispute to the file of the Ld. CIT(A) to decide the same afresh, after calling AO's Remand Report on the additional evidences filed before him u/R 46A and after hearing the assessee, pass a well reasoned and speaking order, in accordance with law.

6. In the result, Revenue's appeal is allowed for statistical purposes.

Order pronounced on 07-03-2019.

**Sd/-**

**Sd/-**

**[O.P. KANT]**  
**ACCOUNTANT MEMBER**

**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

Dt. 07.03.2019

SR BHATNAGAR

Copy forwarded to: -

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

By Order,

ASSISTANT REGISTRAR  
ITAT Delhi Benches

