

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

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER
AND
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER**

I.T.A. No. 2543/Del/2018
Assessment Year: 2014-15

SHADAB,
D-132, SHYAM PARK EXTENSION,
SAHIBABAD,
GHAZIABAD, UTTAR PRADESH
(PAN: DQKPS4365F)
(ASSESSEE)

vs.

ITO, WARD 2(3),
GHAZIABAD

(RESPONDENT)

Assessee by: Sh. Rohit Tiwari, Adv.
Revenue by: Sh. N.K. Bansal, Sr. DR.

ORDER

PER H.S. SIDHU, JM

This appeal is filed by assessee against the Order dated 02.1.2018 passed by the Ld. CIT(A), Ghaziabad relating to Assessment Year 2014-15 on the following grounds:-

1. That the Ld. CIT (A) has failed to appreciate that the Assessment order as passed by Ld. A.O. is bad :n law and facts of the case and also that the same has been passed without giving proper opportunity of being heard.
2. That the Ld. CIT (A) grossly erred on facts and in law in sustaining the addition of Rs. 18,80,445 as made by Ld. A.O. on account of low N.P. Rate.
3. That the Ld. CIT (A) grossly erred on facts and in law in sustaining the addition of Rs. 2,00,000 as against

the addition of Rs. 2,50,000 as made by Ld. A.O. on account of low household withdrawals.

4. That the Ld. CIT (A) grossly erred on facts and in law in sustaining the addition of Rs. 19,36,500 as made by Ld. A.O. on account of opening capital.

5. That the Ld. CIT (A) grossly erred on facts and in law in sustaining the addition of Rs. 88,45,426 as made by Ld. A.O. on adhoc basis @30% of outstanding creditors.

6. That the Ld. CIT (A) erred in facts and in law in not appreciating that:

- All books of account were duly produced before the Ld. A.O.;
- Confirmation from creditors were duly filed and;
- Verification of creditors u/s 133 was duly made by Ld. A.O.

7. That the Ld. CIT (A) erred in law and on facts in confirming the charge of interest u/s 234A, 234B and 234C.

8. That the appellant craves leave to add, to amend, to alter and/or to withdraw any of the above ground to appeal before or at the time of hearing of appeal.

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. During the hearing, Ld. counsel for the assessee has stated that lower authorities have erred in law and on facts in passing the orders and that too without providing adequate opportunity of being heard and without observing the principle of natural justice and did not consider and discuss the documents / evidences filed before the them. In support of these contentions, assessee has filed a Paper Book containing pages 1-258 in which he has attached the copy of order sheet of assessment proceedings before AO; reply of the assessee dated 28.1.2016; copy of balance sheet, audit report, ITR and bank account statements for FY 2013-14; List of outstanding sundry creditors alongwith copies of their ledger accounts; confirmations from 15 sundry creditors alongwith their ID proof; confirmations from remaining 10 sundry creditors alongwith some of their ID proof; copy of bank statement for FY 2014-15 showing payments made to sundry creditors subsequently; copies of all ledger accounts and bank accounts in the books of the assessee alongwith vouchers of expenses; reply of the assessee; copies of notice u/s. 133(6) sent to 15 creditors by AO; reply of assessee on 26.2.2016; list of outstanding sundry creditors alongwith their addresses; financials of the assessee for the period FY 07-08 to Feb 2014; copies of gift deeds and will alongwith translation; copies of relies received from creditors in response of notice u/s. 133(6); reply of the assessee on 10.8.2016; payment to suppliers details dated 20.3.2014, 26.3.2014 and 31.3.2014 alongwith their addresses and quantitative chart; reply of the assessee on 26.9.2016; extract of purchase account in the books of the assessee showing payments made by banking channel; group summary of sundry

creditors as on 31.3.2019 in the books of the assessee; copy of cash book; reply of the assessee on 7.11.2016; reply of the assessee on 23.11.2016 along with cash flow statement; and copy of show cause notice of the AO dated 13.10.2016 and stated that the same were filed before the lower authorities, but were not considered by them. Therefore, he requested that the issues in dispute may be remitted back to the file of the AO to decide the same afresh, as per law after giving adequate opportunity of being heard to the assessee and consider all the documents/evidences of the assessee.

4. On the other hand, Ld. DR relied upon the order of the orders of the authorities below and stated that lower authorities have given various opportunities to the assessee and considered each and every aspect of the issue, hence, the orders of the lower authorities need to be upheld.

5. We have heard both the parties and perused the records as well as the relevant provisions of law, we find considerable cogency in the contention of the Ld. Counsel for the assessee that lower authorities have erred in law and on facts in passing the orders and that too without providing adequate opportunity of being heard and without observing the principle of natural justice and did not consider and discuss the documents / evidences filed before them. We find that the Paper Book filed before us which contain pages 1-258 in which he has attached the copy of order sheet of assessment proceedings before AO; reply of the assessee dated 28.1.2016; copy of balance sheet, audit report, ITR and bank account statements for FY 2013-14; List of outstanding sundry

creditors alongwith copies of their ledger accounts; confirmations from 15 sundry creditors alongwith their ID proof; confirmations from remaining 10 sundry creditors alongwith some of their ID proof; copy of bank statement for FY 2014-15 showing payments made to sundry creditors subsequently; copies of all ledger accounts and bank accounts in the books of the assessee alongwith vouchers of expenses; reply of the assessee; copies of notice u/s. 133(6) sent to 15 creditors by AO; reply of assessee on 26.2.2016; list of outstanding sundry creditors alongwith their addresses; financials of the assessee for the period FY 07-08 to Feb 2014; copies of gift deeds and will alongwith translation; copies of reliefs received from creditors in response of notice u/s. 133(6); reply of the assessee on 10.8.2016; payment to suppliers details dated 20.3.2014, 26.3.2014 and 31.3.2014 alongwith their addresses and quantitative chart; reply of the assessee on 26.9.2016; extract of purchase account in the books of the assessee showing payments made by banking channel; group summary of sundry creditors as on 31.3.2019 in the books of the assessee; copy of cash book; reply of the assessee on 7.11.2016; reply of the assessee on 23.11.2016 alongwith cash flow statement; and copy of show cause notice of the AO dated 13.10.2016 and stated that the same were also filed before the lower authorities, but were not considered by them. Therefore, in the interest of justice, the issues in dispute needs to be remitted back to the file of the AO to decide the same afresh, as per law after giving adequate opportunity of being heard to the assessee and consider all the documents/evidences to be filed by the Assessee as well

as documents/evidences filed by the assessee in the shape of Paper Book, as discussed above.

5.1 In the background of the aforesaid discussions and in the interest of justice, we remit back the issues in dispute to the files of the Assessing Officer with the directions to consider each and every aspects of the issues involved in the Appeal and decide the same afresh, after considering the Paper Book, as aforesaid and give adequate opportunity of being heard to the assessee to substantiate its case. Assessee is also directed to cooperate with the AO in the proceedings and did not take any unnecessary adjournment and file any other evidences / documents before him to substantiate his case alongwith this aforesaid Paper Book.

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

Order pronounced on 17/06/2019.

Sd/-

Sd/-

**[B.R.R. KUMAR]
ACCOUNTANT MEMBER**

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

Date 17/6/2019

"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