

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

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

ITA No.1400/DEL/2017
Assessment Year: 2012-13

Income Tax Officer Ward – 56 (5), Room No.D4 Vikas Bhawan, D- Block New Delhi-110002 (APPELLANT)	Vs	Mool Chand A-559, Gali No.12, Bank Colony Road, Mandoli Extn. Delhi-110093 PAN No. ADAPC5253C (RESPONDENT)
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Appellant by	Ms. Nidhi Srivastava, CIT DR
Respondent by	None

Date of hearing:	01/07/2019
Date of Pronouncement:	02/07/2019

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the revenue is preferred against the order of the CIT(A)-19, New Delhi dated 13.12.2016 pertaining to A. Y. 2012-13.

2. The solitary grievance of the revenue is that the CIT(A) erred in allowing relief of Rs.8,94,35,688/- without providing further opportunity to the Assessing Officer to re-examine the issue.

3. None appeared on behalf of the assessee.

4. The Ld. DR was heard at length and case record carefully perused.

5. Facts on record show that while perusing the balancesheet during the course of the scrutiny assessment proceedings the Assessing Officer noticed the sundry creditors of Rs.8,94,35,688/-. The assessee was asked to explain the same in the light of section 68 of the IT Act. The Assessing officer further issued notice u/s.133 (6) to the creditors but none of the creditors filed any confirmation, the assessee was once again asked to explain the transaction and on receiving no plausible reply the Assessing Officer made the addition of Rs.8,94,35,688/- u/s. 68 of the Act.

6. Assessee strongly agitated the matter before the CIT(A) and strongly contended that particulars of all the creditors were given to the Assessing Officer but the Assessing Officer has not made any enquiry.

7. We find the CIT(A) at para 15 of his order has mentioned that the matter was referred to the Assessing Officer who in his remand report confirmed the fact that no letter were issued to the parties but has received the confirmations now.

8. During the course of appellate proceedings before the CIT(A) the assessee filed copy of accounts of these creditors from whom purchases and sales have been regularly done by the assessee. The CIT(A) was of the opinion that the addition in respect of sundry creditors cannot be made if the purchases have not been doubted by the Assessing Officer and trading results have not been rejected. The CIT(A) accordingly deleted the addition.

9. We have carefully gone through the Assessment Order and the order of the First Appellate Authority. It appears that the copy of account were filed for the first time before the First Appellate Authority but a reading of para 15 of the CIT(A)'s order show that copy of account of the impugned creditors pertained to subsequent years and not to the year under consideration, therefore, it cannot be said that the same contain the transaction of purchase and sales for the year under consideration. We are of the considered view that there is a contradiction in the facts and the decision of First Appellate Authority, therefore, in the interest of justice we restore this issue to the files of the Assessing Officer and the assessee is directed to furnish copy of accounts of the creditors alongwith respective confirmations and the Assessing Officer is directed to examine the same and decide the issue afresh as per the provisions of the law.

10. In the result, the appeal filed by the revenue is treated as allowed for statistical purpose.

Order pronounced in the open court on 02.07.2019.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:- 02.07.2019

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
 ITAT NEW DELHI

Date of dictation	01.07.2019
Date on which the typed draft is placed before the dictating Member	01.07.2019
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	02.07.2019
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	