

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

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

**ITA No. 6513/Del/2018
Assessment Year: 2014-15**

Arora Infracon Pvt. Ltd. A-4/68, Ground Floor, Paschim Vihar, New Delhi. PAN No. AAJCA4415H	vs	ITO Ward 3(2) New Delhi.
APPELLANT		RESPONDENT

Assessee by	Shri Chandra Shekhar, CA
Revenue by	Shri S.L. Anuragi, Sr. DR

ORDER

The assessee filed the present appeal against the impugned order dated 08.08.2018 passed by the Ld. CIT(A) on the following grounds:

1. *“That on the facts and circumstances of the case, the Ld. CIT(A)-1 and Assessing Officer has erred in calculating the value of unsold flat at Rs. 25,00,000/- without any basis and adding back the same in taxable income in assessment order in place of Rs. 8,76,918/-. Hence, the order passed is unjustified.*
2. *That on the facts and circumstances of the case, the Assessing Officer has wrongly rejected the books of accounts inspite of submitting all details of trading stock such as opening, closing, sale and purchase of stock. Therefore, order passed is unjustified.*
3. *That on the facts and circumstances of the case the entire sale value of the 2nd floor flat is considered in the FY 2014-15 as revenue income and due taxes were paid without any deduction of cost. Therefore, appellant has not concealed any amount of income and taxes thereon.*

Hence, assumption of ld. CIT(A)-1 and assessing is wrong and order passes is unjustified and against the facts.

4. *The appellant craves leave to add, alter or modify any ground of appeal at the time of hearing.”*

2. Facts narrated by the Revenue authorities are not disputed by both the parties, therefore, no need to repeat the same for the sake of convenience.

3. At the time of hearing, Ld. Counsel for the assessee draw my attention towards page no. 39 of the Paper Book and stated that the reply dated 19/12/2016 filed by the assessee to the Income tax Officer, Ward 3(2), Room No. 381, C.R. Building, New Delhi in response to the notice issued u/s 142(1) of the Act for AY 2014-15 has not been considered by the Assessing Officer and decided the issue in dispute against the assessee. He requested that AO may be directed to decide the reply dated 19/12/2016 and decide the issue in dispute afresh as per law and after giving opportunity to the assessee.

4. On the contrary, Ld. DR did not strongly object on the request of assessee's counsel.

5. I have heard the Ld. Counsel for the assessee as well as the ld. DR and I have also gone through the orders passed by the Revenue authorities and I am of the view that specially page no. 39 i.e. reply dated 19/12/2016 the AO has not considered the reply dated 19/12/2016 and decided the issue in dispute. In the interest of justice as requested by the Ld. Counsel for the assessee, I am directing the AO to decide the issue in dispute afresh as per law after giving opportunity to the assessee as well as after considering the reply dated 19/12/2016

filed in response to notice u/s 142(1) for AY 2014-15. Assessee is also directed to cooperate in completion of assessment proceedings and not to take unnecessary adjournment. I set aside the issue in dispute to the AO as directed above.

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

Order pronounced in the open Court.

Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 10/07/2019

*Kavita Arora

Copy forwarded to:

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

TRUE COPY

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	09.07.2019
Date on which the typed draft is placed before the dictating Member	09.07.2019/ 10.07.2019
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	10.07.2019
Date on which the fair order is placed before the Dictating Member for pronouncement	10.07.2019
Date on which the fair order comes back to the Sr. PS/PS	10.07.2019
Date on which the final order is uploaded on the website of ITAT	10.07.2019
Date on which the file goes to the Bench Clerk	10.07.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	