

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. 4890/DEL/2015	
	A.Y. : 2008-09	
Sh. Ganesh Arora, C-7/3, 3 rd Floor, Vasnat Vihar, New Delhi (PAN: AAFPA9283H)	VS.	ACIT, CC-14, NEW DELHI
(APPELLANT)		(RESPONDENT)

Assessee by : Sh. Ved Jain, Adv. & Sh. Rishabh Jain, CA
Department by : Sh. S.S. Rana, CIT(DR)

ORDER

PER H.S. SIDHU : JM

This appeal by the Assessee is directed against the Order of the Ld. Commissioner of Income Tax (Appeals)-30, New Delhi dated 17.3.2015 pertaining to assessment year 2008-09 on the following grounds:-

1. On the facts and circumstances of the case, the order passed by the Ld. CIT(A) is bad both in the eye of law and on facts.
- 2(i) On the facts and circumstances, the Ld. CIT(A) has erred both on facts and in law in confirming the addition

of an amount of Rs. 10,68,950/- made by the AO on account of expenditure incurred on marriage ceremony of the assessee's daughter.

(ii) That the above addition has been confirmed by arbitrarily rejecting the explanations and evidences submitted by the assessee.

2. That the appellant craves leave to add, amend or alter any of the grounds of appeal.

2. Brief facts of the case are that a search and seizure operation u/s 132 of the Income Tax Act 1961 was carried out at various premises of 'Arora Group' on 18.01.2008. This group is stock broker for equity and commodities also, some of the group companies are doing trading of timber. The group is managed by Sh. Gaurav Arora and Sh. Ganesh Arora, who are brothers. Both do business independently, while Sh. Gaurav Arora does stock/commodity brokerage business through two of his flagship companies i.e. M/s Jaypee Capital Services (P) Ltd. and Mis Jaypee Commodities (P) Ltd. Sh. Ganesh Arora is in timber business. Search operation was also carried out at residential premises at C-7/3, Vasant Vihar, New Delhi of Sh. Ganesh Arora. Thereafter, the case was centralized u/s 127(2) of the Act. Since a search was initiated u/s 132 of the Act

after the 31st day of May, 2003, a notice u/s 142 (I) of the Income Tax Act, 1961 was issued on 30.03.2009, wherein the assessee was required to file a return in the prescribed form for the Assessment Year 2008-09. The assessee filed return on 25.05.2009 declaring total income of Rs. 1,41,540/-. Notice u/s 143(2) was issued on 25.08.2009, which was served upon assessee on 25.08.2009. Notice u/s 142(1) dated 25.08.2009, was served upon assessee through C.A/A.R on 25.08.2009. Detailed questionnaire along with notice u/s 142(1) of the Income Tax Act, 1961 was issued on 18.09.2009 and duly served upon the assessee on 22.09.2009. Further notices u/s 142(1) dated 23.10.2009 alongwith show cause notice u/s 271(1)(b) of I. T. Act were issued and duly served. In compliance thereto. The AR. of assessee attended the proceedings from time to time and filed necessary details/information/documents, etc. as required. Assessee derives income from house property and income from other sources during the financial year under consideration. The requisite have been asked and provided by the assessee. The AO observed that as there was two functions during the year regarding engagement and marriage ceremony of assessee's daughter certain bride's garments (i.e. Langha, Saree, Suits, and other general valuable items were certainly purchased. The assessee vide show cause notice dated 4.12.2009, asked to clarify

the details of bills with necessary evidences and assessee in his reply submitted that *the bills/vouchers related to assessee and incurred on various marriage related items. Drawings are reflected in statement of affairs (Rs. 9,08,249/- in assessee case Rs. 1,71,870/- in his wife case)*. Thereafter, the AO observed that it is clear that the assessee has purchased items worth Rs. 10,68,950/- and these expenses are not properly booked, expenses incurred out of unexplained money, by treating the expenses shown by assessee under house hold expenses are incurred for that purpose in accordance to his social status. Thus these unexplained investments u/s. 69 of the Act amounting to Rs. 10,68,950/- was added to the total income of the assessee and also made other additions vide order dated 30.12.2009 passed u/s. 143(3) of the Act. Against the assessment order assessee appealed before the Ld. CIT(A), who vide his impugned order dated 17.3.2015 has partly allowed the appeal of the assessee. Aggrieved with the impugned order the assessee is in appeal before the Tribunal.

3. At the time of hearing, Ld. Counsel for the assessee stated that the order passed by the revenue authorities is against the law and facts on file and is not sustainable in the eyes of law. He further submitted that the addition of Rs. 10,68,950/- was made by the AO on account of expenditure incurred on marriage ceremony of

the assessee's daughter is not tenable, keeping in view of the evidences produced by the assessee before the Revenue Authorities, as well as in view of the status of the assessee's family. In support of his contention, he filed the Paper Book containing pages 1-61 in which he has attached the various documentary evidences to support his contention. He requested that keeping in view of the status of the family of the assessee and the evidences produced by the assessee in support of his arguments, the addition in dispute may be deleted.

4. On the contrary, Ld. DR relied upon the order passed by the revenue authorities.

5. We have heard both the parties and perused the records and also gone through the documentary evidences filed by the assessee in the shape of Paper Book containing pages 1-61 in which he has attached the copy of acknowledgement of return and computation of income; copy of statement of affairs of the assessee as on 31.3.22008; copy of statement of affairs of the assessee as on 31.3.2008; copies of Panchnamas drawn at C-7/3, Vasant Vihar, 18.1.2008; copies of seized materials; copy of details of cash, bank account and copy of bank statement of the assessee; copy of statement of affairs of Ritu Arora; written submission filed before

CIT(A); copy of CIT(A) order passed in the case of Smt. Ritu Arora of AY 2008-09 and copy of AO's order passed in the case of Smt. Ritu Arora of AY 2008-09, which shows that the assessee had sufficient drawings from his bank account from which expenditure has been incurred on the marriage of his daughter. Keeping in view of the status and evidences filed by the assessee, the addition made by the AO and confirmed by the Ld. CIT(A) is without any cogent evidences and valid reasons, hence, the addition in dispute is deleted.

6. In the result, the Appeal filed by the assessee stands allowed.

Order pronounced on 12/07/2019.

Sd/-

[B.R.R. KUMAR]
ACCOUNTANT MEMBER

Date 12/07/2019

"SRBHATNAGAR"

Copy forwarded to: -

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

TRUE COPY

Sd/-

[H.S. SIDHU]
JUDICIAL MEMBER

By Order,

Assistant Registrar,
ITAT, Delhi Benches