

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No.5762/Del/2016
Asstt. Year: 2012-13

Smt. Pushpa Saluja 507, Elephanta Heights, Dwarka Delhi – 110 075 PAN ALOPP4728R	Vs.	ACIT, Circle-43(1), New Delhi.
(Appellant)		(Respondent)

Assessee by:	None
Department by :	Shri Surender Pal, Sr. DR
Date of Hearing	29/07/2019
Date of pronouncement	29/07/2019

ORDER

PER AMIT SHUKLA, J.M

The aforesaid appeal has been filed by the assessee against impugned order dated 21.7.2016, passed by Ld. CIT (Appeals) 15 Delhi for the quantum of assessment passed u/s 143(3) for the assessment year 2012-13. In the grounds of appeal assessee has raised following grounds:

1. *“That on the facts and circumstances of the case, the assessment order is illegal and unjustified since statutory notice u/s 143(2) was not served upon the assessee on or before the time limit laid down in the proviso to section 143(2)*

of the Income Tax Act, 1961 and, therefore, the entire addition is liable to be deleted.

- 2. That no proper opportunity of being heard was provided. In the assessment order itself, the AO has mentioned that he initiated assessment proceedings vide notice u/s 143(2) dated 12/02/2015 and the assessment order was passed on 27/03/2015, i.e., within a short span of 40 days. Hence, principle of natural justice was violated and, therefore, the entire addition is liable to be deleted.*
- 3. That on the facts and circumstances of the case, the addition of Rs. 36,24,768/- on the alleged ground of bogus creditors is illegal and unjustified and, therefore, the addition is liable to be deleted.*
- 4. That the charging of interest under section 2346 is illegal and unjustified and, therefore, ought to be deleted.”*

2. The facts in brief are that the assessee is in the business of manufacturing and trading of ladies garments, accessories. Ld. AO has made addition on account of bogus sundry entries for sums amounting to Rs. 36,24,768/- out of total sundry creditors shown at Rs. 68,60,304/-. Ld. AO has noted that out of 17 parties shown as sundry creditors, the confirmations could be received only for sums amounting to Rs. 32,35,536/- and other creditors have not filed their confirmation. Based on this reasoning, he has made the addition of Rs. 36,24,768/-.

3. Ld. CIT (A) has passed ex parte order on the ground that assessee has not made compliance on dates fixed without adjudicating it on merits.

4. Since first appellate authority has passed an ex parte order the matter has not been decided on merits by the Ld. CIT(A), therefore, in the interest of justice, we are in the view that the matter should be remanded back to the file of Ld. CIT(A), who shall decide this issue afresh and in accordance with law after giving due opportunity to the assessee to substantiate her case on the issues raised in the grounds of appeal before us. Assessee is also directed to cooperate in the appellate proceedings and submit all the necessary documents and explanation to substantiate the case.

5. In the result appeal of the assessee is allowed for statistical purposes.

Order Pronounced in the open court on **29th July, 2019.**

sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 29/07/2019

Veena

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi