

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

**BEFORE
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 6193/Del/2016
Asstt. Year: 2012-13

CBS Steel Pvt. Ltd. M/s. S B Garg & Co., CAs, 20/17, Shakti Nagar, Delhi - 110 007 PAN AACCC7004P	Vs.	DCIT Circle-5(2) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri Sachin Kumar, FCA
Department by :	Shri Amrit Lal, Sr. DR
Date of Hearing	04/11/2019
Date of pronouncement	05/11/2019

ORDER

PER SUDHANSHU SRIVASTAVA, JM:

This appeal is preferred by the assessee against order dated 26.8.2016 passed by the Ld. Commissioner of Income Tax (Appeals)-2, New Delhi {CIT (A)} for assessment year 2012-13.

2. Brief facts of the case are that in this case the return of income was filed declaring a loss of Rs. 112,705,570/-. The case was selected for scrutiny and during the course of assessment

proceedings, the Assessing Officer (AO) noticed that the assessee had received share capital/premium to the tune of Rs. 38,700,000/-. The AO proceeded to treat the said share capital/premium as unexplained cash credit u/s 68 of the Income Tax Act 1961 (hereinafter called 'the Act') and added the same to the income of the assessee. On appeal, the Ld. CIT (A) upheld the addition. Now, the assessee is before the ITAT and has challenged the order of the Ld. First Appellate Authority.

3. At the outset, the Ld. Authorised Representative submitted that the Ld. First Appellate Authority has passed the order and upheld the addition without the issue being properly represented before him. It was pleaded that in the interest of justice, the assessee should be given another opportunity before the Ld. CIT (A).

4. In response, the Ld. Senior Departmental Representative pointed out that several opportunities had been afforded to the assessee by the Ld. First Appellate Authority but he chose to seek adjournment on each occasion and, therefore, the Ld. First Appellate Authority had no option but to decide the case based on the material available on record.

5. Having heard both the parties and after having gone through the impugned order, it is our considered opinion that in view of substantial justice the assessee should be given another chance. Therefore, we restore the appeal to the file of the Ld. CIT (A). However, this restoration is subject to the assessee depositing an amount of Rs. 25,000/- towards the Prime Minister's National Relief Fund on or before 30th November, 2019. The assessee shall present itself before the Ld. CIT (A) on or before 6th February, 2020 along with the copy of this order and receipt of payment of Rs. 25,000/- towards the Prime Minister's National Relief Fund and the Ld. CIT (A) shall grant him adequate opportunity and decide the issues before him afresh.

6. In the final result the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 5th November, 2019.

sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Dated: 05/11/2019

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

ASSISTANT REGISTRAR
ITAT, New Delhi