

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

**BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No.2399/Del/2017  
Assessment Year: 2011-12

Smt. Maninder Bedi, C/o-R.S. Ahuja & Co., C-353, Defence Colony, New Delhi	<b>Vs.</b>	DCIT, Central Circle-11, New Delhi
<b>PAN :AAHPB1620Q</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Shri R.S. Ahuja, CA
Respondent by	Shri F.R. Meena, Sr.DR

Date of hearing	04.11.2019
Date of pronouncement	14.11.2019

**ORDER**

**PER O.P. KANT, AM:**

This appeal by the assessee is directed against order dated 23.02.2017 passed by the learned Commissioner of Income-tax (Appeals)-24, New Delhi [in short 'the Ld. CIT(A)'] for assessment year 2011-12 raising following grounds:

- (A) *That on the facts & circumstances of the case the learned DCIT & the CIT(A) erred in:*
- i) Making an addition of Rs.2,34,43,192/-*
  - ii) Making an addition in spite of it not pertaining to this assessment year.*
- (B) *The Assessee craves leave to add, Alter or amend the grounds of appeal at or before the hearing.*

**2.** Briefly stated facts of the case are that assessee filed return of income filed on 21/03/2012 declaring total income of ₹1,99,02,830/-. The scrutiny assessment under section 144 of the Income-tax Act, 1961 (in short 'the Act') was completed on 27/03/2014 after making addition of ₹2,34,43,192/- on account of the difference of opening amount of capital of the assessee shown in the statement of the affairs as on 31/03/2011 (Rs.7,06,62,708/-) and the closing balance of the capital (Rs.4,72,19,516/-) shown in the statement of the affairs as on 31/03/2010. On further appeal, the learned CIT(A) upheld the addition.

**3.** Before us, the Ld. counsel of the assessee filed a paper-book containing pages 1 to 13 and submitted that the assessee was Managing Director of Tulip Telecom P. Ltd. and due to business restructuring of the company and substantial reduction in staff looking after financial records, he could not represent before the Assessing Officer and file relevant documents and therefore, the Assessing Officer made addition relying on incorrect statement of affairs. The Ld. counsel given an undertaking that all the relevant statement of affairs for the preceding year as well as current year along with documentary evidence and books of accounts, vouchers etc in support of the claim of the capital and other entries of investments/expenditure etc. appearing therein, shall be produced before the Assessing Officer, in case the matter is restored back to the file of the Assessing Officer.

**4.** The DR though relied upon the order of the lower authorities could not controvert that issue in dispute need examination afresh by the Assessing Officer

**5.** We have heard rival submission of the parties and perused the relevant material on record. The learned CIT(A) has rejected the plea of the assessee for filing another balance sheet before him by the assessee explaining reconciliation of the opening capital of reported in statement of the affairs for year under consideration and closing capital of the statement of the affairs of preceding year observing as under:

“4.3.2 .....

(i) .....

(ii) *The appellant sought to file another balance-sheet for that period, where the closing balance is much higher than Rs.4,72,19,516/-. However, the appellant could not submit any evidence to show that this balance sheet has been submitted before the A.O. during the course of assessment proceedings for A.Y. 2010-11, nor could it be explained as to how balance sheet relied upon by the A.O., which was clearly submitted by the appellant during the assessment proceedings for A.Y. 2010-11 was incorrect. Therefore, this claim of the appellant is rejected. The difference amount of Rs.2,34,43,192/- constitutes unexplained investment of the appellant.”*

**6.** In our opinion, the action of the learned CIT(A) of outrightly rejection of fresh/another balance-sheet filed by the assessee, without looking into the authenticity of the transactions reported therein, is not justified being against the principle of the natural justice. The financial statements including balance sheet are prepared on the basis of the financial transactions carried out by the assessee. If the assessee is in a position to substantiate the financial transactions carried out during the preceding year as well as the year under consideration along with documentary evidence, then the learned CIT(A) was required to look into the

amended balance-sheet filed before him, which was claimed by the assessee as correct one.

**7.** The alternative prayer of the assessee for making addition in the assessment year 2011-12 was also rejected by the learned CIT(A) observing as under:

“4.3.2.....

(i) .....

(ii) .....

(iii) *The appellant also submitted that in the alternative the addition cannot be made for A.Y. 2011-12. At best it could be made only for A.Y. 2010-11. I have considered this submission, and I find it unacceptable. The closing balance figure of Rs.4,72,19,516/- was submitted by the appellant as for assessment proceedings for A.Y. 2010-11 and was accepted by the A.O. The appellant is now stopped from pleading that this was not the correct figure as on 31.03.2010. The matter has attained quietus and the appellant is bound now to that figure as on 31.03.2010. It follows that the unexplained increase in capital as on 01.04.2011 amounts to an unexplained investment appearing on 01.01.2010 which pertains to A.Y. 2011-12. Under the provisions of section 69 of the Income Tax Act, 1961 the primary onus is squarely on the appellant to provide a satisfactory explanation in respect of unexplained investments. Unless the appellant discharges this onus, the burden of proof cannot be shifted to the Assessing Officer. On its part, the appellant has not provided any explanation, must less a satisfactory one or any evidence in support of its contentions. I am of the considered view that the claims of the appellant have to be rejected. The addition made by the A.O. is confirmed.”*

**8.** In view of the prayer of the assessee and the undertaking given by the Ld. counsel of the assessee, for producing all relevant documentary evidence in support of its claim before the Assessing Officer, we feel it appropriate to restore the issue to the

file of the Assessing Officer for deciding afresh. The onus lies on the assessee to support the financial transactions reported in the fresh/another balance-sheet along with documentary evidences like, bank account transaction or proof of income or expenditure etc. In absence of documentary evidence in support of the transaction reported in the balance-sheet, the Assessing officer shall be free to take decision in accordance with law. It is needless to mention that the assessee shall be afforded adequate opportunity of being heard. The ground of the appeal of the assessee is allowed for statistical purposes.

**9.** In the result, the appeal of the assessee is allowed for statistical purposes.

***Order is pronounced in the open court on 14<sup>th</sup> November, 2019.***

***Sd/-***  
**(BHAVNESH SAINI)**  
**JUDICIAL MEMBER**

***Sd/-***  
**(O.P. KANT)**  
**ACCOUNTANT MEMBER**

Dated: 14<sup>th</sup> November, 2019.

RK/-(D.T.D.)

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi