

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" New Delhi**

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.3156/Del/2019
निर्धारणवर्ष/Assessment Year:2014-15

Munish Kumar Gupta F-27, Rajori Garden, Delhi.	बनाम Vs.	ACIT Circle 45(1) New Delhi.
अपीलार्थी Appellant		प्रत्यर्थी/Respondent
PAN No. AAFPG1281Q		

निर्धारितकीओरसे /Assessee by	Ms. Shashi M. Kapila, Adv. Shri Pravesh Sharma, Adv.
राजस्वकीओरसे /Revenue by	Shri Pradeep Singh Gautam, Sr. DR

आदेश /O R D E R

1. This appeal filed by the assessee against the impugned order dated 07.01.2019 passed by the Ld. CIT(Appeals)-15, Delhi in relation to assessment year 2014-15 on the following grounds of appeal:

1. *"That on the facts and in the circumstances of the case the order of the CIT(A) is bad in law and against the principle of natural justice.*
2. *That on the facts and circumstances of the case, the Ld. CIT(A) erred in sustaining the addition of Rs. 38,75,000/- made by the AO as unexplained cash deposits u/s 68 of the Act despite the facts that assessee explained the source of cash deposit.*
3. *That on the facts and in circumstances of the case the Ld. CIT(A) erred in sustaining the addition made by the AO treating the cash deposited in the bank accounts of Rs.*

38,75,000/- as unexplained money u/s 69A of the Act and made the addition u/s 68 of the Act.

4. That on the facts and in the circumstances of the case the Ld. CIT(A) erred in confirming the action of the AO by not adjusting the returned loss of Rs. (-) 18,43,567/- against the addition of Rs. 38,75,000/- made by the AO.

5. That the appellant craves leave to add, delete or amend any of the grounds of appeal on or before the disposal of the present appeal.”

2. At the time of hearing, Ld. Counsel for the assessee stated that Ld. First Appellate Authority has passed a non-speaking order without considering the documentary evidence filed by the assessee before him. He has also filed a paper book containing page A-J 1 to 95 in which he has attached computation of total income of Mr. Munish Gupta for AY 2014-15, ITR-4 E-Ack of Mr. Munish Gupta for AY 2014-15, details of cash deposited with Canara Bank Kirti Nagar New Delhi & Corporation Bank Rajouri Garden New Delhi, details of cash withdrawn from: (i) Canara Bank, Kirti Nagar, New Delhi, (ii) Corporation Bank, Rajouri Garden, New Delhi, (iii) Punjab National Bank, Kundli, Haryana, (iv) S.M. International, Cash Book for the year ended 31.03.2014, Statement of Affairs of Mr. Munish Gupta year ended 31.03.2014, Copy of ITAT order of Sudhirbhai Pravinkant Thaker vs. ITO (2015) 44 ITR (Trib) 0135 (Ahmedabad), Copy of ITAT order of Income Tax Office vs. Ashok Kumar Jain (2015) 45 CCH 0163 Chd. Trib., Audited Trading, Profit & Loss Account of Share & Securities for the year ending 31.03.2014 of Mr. Munish Gupta, 3CD

Report with acknowledgment of Mr. Munish Gupta year ended 31.03.2014, (i) Bank Statement of Corporation Bank, Rajouri Garden, N. Delhi, SB A/c No. SB/01/002344 (ii) Bank Statement of Canara Bank, Kirti Nagar, N. Delhi, SB A/c No. 0015, (iii) Bank Statement of Punjab National Bank Kundli, Haryana A/c No. 19198 All Bank Statement pertains to Mr. Munish Gupta, Copy of Cash Book of Mr. Munish Gupta for the year ended 31.03.2013, Statement of Affairs 31.03.2013 of Mr. Munish Gupta, Copy of Capital Account of Mr. Munish Gupta for the year ended 31.03.2014 in S.M. International, S.M. International Audited Profit & Loss and Balance Sheet 31.03.2014, Hard copy of ITR-4 electronically filed of Mr. Munish Gupta for AY 2014-15, Notes on clauses-Finance Bill 2016, Letter of demand, Stay Application filed before AO, Order rejecting stay of demand.

3. Ld. Counsel for the assessee also certified that item no. 1 to 17 has been filed before the lower authorities and item no. 18 is a note on clauses-finance bill, 2016 is already in public domain and item no. 19 are correspondences with the Ld. AO. In the end, she stated that the evidence filed by the assessee is sufficient for substantiating the claim of assessee which has not been considered by the CIT(A). She further stated that the issue involved in ground no. 4 i.e. regarding not adjusting the returned loss of Rs. (-) 18,43,567/- against the addition of Rs. 38,75,000/- made by the AO has wrongly been confirmed by the Ld.

CIT(A) without going through the evidence filed by the assessee before him.

4. She requested that the issues mentioned in these aforesaid of appeal may be set aside to the Ld. CIT(A) to decide the same afresh as per law, after appreciating the evidence which the assessee has filed in the shape of paper book mentioned above as well as after providing full opportunity to the assessee.

5. Ld. DR has not raised any serious objection on the request of the Ld. Counsel for the assessee and relied upon the order of the Revenue Authorities.

6. I have heard the both parties and perused the orders passed by the Revenue Authorities especially the impugned order passed by the Ld. CIT(A) along with the documentary evidence filed by the assessee in the shape of paper book (mentioned above). I am of the considered view that the impugned order is non-speaking order which is not sustainable in the eye of law, therefore, in the interest of justice, I am setting aside the issues involved in the present appeals and also raised before the Ld. First Appellate Authority to decide the same afresh as per law, after giving full opportunity to the assessee and after appreciating the evidence filed by the assessee in the shape of paper book which I have mentioned in the foregoing paragraph.

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

The order pronounced in the open court on 04.12.2019

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

Dated: 4th December, 2019
**Kavita Arora, Sr. PS*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi