

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

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SH. PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No. 155/DEL/2018 (A.Y 2014-15)

(THROUGH VIDEO CONFERENCING)

Nidhi Builders (1) Pvt. Ltd. B-7/92, Safdarjung Enclave Extension, New Delhi AABCN4091J (APPELLANT)	Vs	ITO Ward-18(2) New Delhi (RESPONDENT)
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Appellant by	None
Respondent by	Sh. Gaurav Pundir, Sr. DR

Date of Hearing	02.09.2021
Date of Pronouncement	23.09.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 09/10/2017 passed by CIT(A)-6, Delhi for assessment year 2014-15.

2. The grounds of appeal are as under:

"1. The Ld. Assessing Officer is not justifying in disallowing of Rs. 33,50,000/- in regard of cash Deposited by the assessee.

3. The assessee company is engaged in the business of construction of real estate like buildings, farm houses etc on Turnkey basis and allied works like civil, engineering and plumbing works etc. The original return of income declaring an income of Rs. 'NIL' was e-filed on 13/9/2014. The assessee had

shown a profit of Rs.13,65,946/- in the computation of income after setting off business loss of Assessment Year 2011-12 at 'NIL' income. However, tax was paid u/s 115JB on an income of Rs. 13,19,107/-. The Assessing Officer made addition of Rs.13,73,827/- in respect of miscellaneous expenses and repair of JC Blocks. The Assessing Officer also made addition of Rs. 33,50,000/- in respect of cash credits.

4. Being aggrieved by the penalty order, the assessee filed appeal before the CIT(A). The CIT (A) partly allowed the appeal of the assessee.

5. At the time of hearing none appeared on behalf of e despite giving notice. The acknowledgment receipt of speed post is received in the registry of Income Tax Appellate Tribunal with the remark that no such person at this address was found. There is no new address given by the assessee at any point of time. Thus, the service is complete, therefore, we are proceeding on the basis of the contentions of the assessee before the Assessing Officer and before the CIT(A) as set out in the assessment order and order of the CIT(A).

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard Ld. DR and perused all the relevant materials available on record. The assessee has contended before the Assessing Officer as well as before the CIT(A) that during the Assessment Year, the assessee had deposited amount of Rs. 33,50,000/- in his bank account. The assessee's contentions before the CIT(A) was that the assessee had an opening cash balance of Rs. 37,10,469/- and had withdrawn Rs. 9,83,000/- from the bank during the present Assessment Year. Thus, the cash deposits in the bank were made solely out of own funds and are not in the nature of income of the assessee. The assessee has produced cash flow statement before the Assessing Officer. In para 3.2.2 of the order of the CIT(A), it is clearly mentioned that the assessee has filed application for filing additional evidence under Rule 46A in respect of

filing cash account and ledge of cash account, but the CIT(A) has not considered the application and has not at all commented while confirming the additions. Therefore, it will be appropriate to remand back the issue contested herein to the file of the CIT(A) for proper adjudication of Application under Rule 46A and after taking cognizance of the evidences decide the matter on merit, as per the law. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on this 23rd Day of September , 2021

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 23/09/2021

*R. Naheed **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI

