

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

**Before Sh. Amit Shukla, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**(Through Video Conferencing)**

**ITA No. 986/Del/2016 : Asstt. Year : 2011-12**

Income Tax Officer, Ward-45(2), New Delhi	Vs	Harjit Singh Bedi, J-7/13, Rajouri Garden, New Delhi-110027
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. BBRPB5019D</b>		

**Assessee by : Sh. S. B. Gupta, CA**

**Revenue by : Sh. Ajay Kumar, Sr. DR**

**Date of Hearing: 04.08.2021**

**Date of Pronouncement: 11.10.2021**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the revenue against the order of Id. CIT(A)-15, New Delhi dated 17.12.2015.

2. Following grounds have been raised by the revenue:

*"1. The Ld. CIT(A) erred on facts and in law holding the issuance of the notice as well as assessment proceeding as invalid and annulling the assessment order.*

*2. The Ld. CIT(A) erred on facts and in law in straight away accepting the contention of the assessee that it has filed the return of income for A.Y. 2009-10 on 15.02.2010 without adjudicating the fact which the AO brought on record that the PAN in this case was allotted only on 20.01.2011, then how can the assessee mention such a PAN prior to issue of same PAN.*

*3. The Ld. CIT(A) erred on facts and in law in restricting the addition of Rs.4,10,48,041/- on account of unexplained capital treated as income from undisclosed sources u/s 68 of the I.T. Act, 1961 to Rs.2,46,910/-.*

*4. The Ld. CIT(A) erred on facts and in law in deleting the addition of Rs.45,00,000/- on account of unexplained unsecured loans treated as income from undisclosed sources u/s 68 of the I.T. Act, 1961."*

3. The assessee is engaged in the business of trading of Auto Parts. The return of income was filed electronically on 31.01.2012 declaring an income of Rs.7,09,000/-.

4. The Assessing Officer observed that there was capital of Rs.4,10,48,041/- in the proprietor's account, the source of which could not be explained by the assessee. The Assessing Officer, therefore, treated the same as unexplained cash credit u/s 68 of the Income Tax Act, 1961.

5. Heard the arguments of both the parties and perused the material available on record.

6. The facts emanate as under:

The amount of Rs.4,10,48,041/- consists of opening balance of capital of Rs.4,02,52,521/- and the net profit of Rs.5,48,610/- shown in the return of income. It was explained that the opening balance has been the carried down amount from the earlier years. Since, the amounts were opening balance, therefore, it was not liable to tax u/s 68 for the A.Y. 2011-12. The Id. CIT(A) in order to clarify the issue has written letter to the Assessing Officer on 21.10.2015. The Assessing Officer submitted the remand report on 07.12.2015. The Id. CIT(A) has

further perused the copies of the balance sheet for the A.Y. 2009-10 and A.Y. 2010-11 wherein the amounts are appearing in the relevant Annexures. It has been categorically held these amounts are not fresh credit entries in the books of accounts of the assessee in the year under consideration. Even, before us, the revenue could not controvert the fact that the amounts have been duly reflected in the capital account for the A.Ys. 2009-10 and 2010-11. The documents filed by the assessee and its veracity before us in the paper book consisting of copy of acknowledgment of Income Tax Return, Tax Audit Report, Balance Sheet and Profit & Loss Account for the A.Ys. 2009-10 and 2010-11 has not been disputed by the revenue.

7. Hence, we hereby hold that the opening balance cannot be held to be a cash credit u/s 68, the order of the Id. CIT(A) is hereby affirmed.

8. In the result, the appeal of the revenue is dismissed.  
Order Pronounced in the Open Court on 11/10/2021.

Sd/-

**(Amit Shukla)**  
**Judicial Member**

**Dated: 11/10/2021**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**