

**IN THE INCOME TAX APPELLATE TRIBUNAL  
( Delhi Bench "F", NEW DELHI)**

**(Through Video Conferencing)**

**BEFORE**

**SHRI AMIT SHUKLA, JUDICIAL MEMBER  
and  
Dr. B.R.R. KUMAR , ACCOUNTANT MEMBER**

**ITA No. 1500/Del./2018, A.Y. : 2014-15**

ACIT, Central Circle-19, Room No. 104, New Delhi	Vs	M/s. RBRL Agro Commodities Ltd. 4088-94, Naya Bazar New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>(PAN : AADCR8630F)</b>		

**Revenue by : Ms. Shirumi Bansal, Sr. DR  
Assessee by : Sh. Rakesh Gupta, Adv.**

<b>Date of Hearing: 13.09.2021</b>	<b>Date of Pronouncement: 30.11.2021</b>
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**ORDER**

**PER B.R.R.KUMAR, ACCOUNTANT MEMBER :**

This appeal has been filed by the revenue against the order of the Id. CIT(A)-28, New Delhi, dated 15.12.2017.

**Unexplained Cash**

2. The assessee is a commission agent in the agricultural market

dealing with pulses. During the year the assessee has deposited an aggregate amount of Rs. 66.03 crores in cash. During the month of March, 2014 the assessee has deposited 6.4 crores of cash in the bank account no. 64023776674 maintained in State Bank of Masore, Naya Bazar, New Delhi and also in the bank account of Kotak Mahindra Naya Bazar, New Delhi on varies dates. The details have been mentioned in the assessment order. The AO however held that the cash deposit of Rs. 50 lakhs has been made on one particular date i.e. 31.03.2014 and held that it is impossible to understand that the cash sales to place only in the last week or last day of the year. The Ld. CIT(A) deleted the addition on the grounds that the assessee has given the complete details of 25 parties from home cash amounts were received. The assessee has also provided their names and addresses, bill numbers and amounts, cash receipt numbers, description of material sold, date of cash receipt etc. and thus, discharging its basic onus of proving the genuineness of transactions and source of cash deposit made in the bank account. Ld. CIT(A) held that the AO as summarily rejected the details/ evidence submitted by appellant by giving general remarks that bills/ vouchers are not furnished by assessee, deposits are mainly confined to the month of March, the plea taken by assessee that cash sales are made are an afterthought to mislead the department etc. On the contrary, the appellant has produced and filed all the relevant and corroborative evidence, supported with the documentary evidence, to prove that the cash deposits in bank have been made out of the sale proceeds of pulses during the regular course of business. The findings of AO that these cash deposits are mainly confined to the month of March in each year, is also not true as the details filed by the appellant clearly shows that the aggregate amount of Rs. 66,03,93,323/- was deposited as cash in the bank throughout the year which ranges from minimum amount in one month i.e. Rs. 4,60,00,000/- in January, 2014 to maximum deposit

in a month at Rs. 7,52,00,000/- in April, 2013. In the month of March, 2014 itself, appellant has deposited Rs. 6,40,00,000/- in the bank out of the cash of Rs. 8,97,95,829/- received from parties against sales and Rs. 50,00,000/-, subject matter the aforesaid addition, is a small part of these deposits. Thus, it has been a regular practice of appellant depositing the cash in bank account out of sale proceeds and there is nothing unusual about it.

3. We have gone through the material on record, and find that the Ld. CIT(A) has given a cogent reason for deleting the issue. In fact the addition has been made without taking into consideration of the explanation of the assessee and by grossly ignoring the material available rightly before the assessing officer who choose to misinterpret the evidences filed by the assessee. Hence, we decline to interfere with the order of the Ld. CIT(A) on this issue.

**Addition on account of Stock:**

4. During the assessment proceedings, it was observed by AO that during the course of search and seizure operation, physical stock of pulses of Rs. 14,03,58,319/- was found at the office and godown premises of assessee company whereas in the books of account, the stock of pulses was entered to the value of Rs. 43,65,74,450/-. As per AO, during the post search investigation and during the assessment proceedings, assessee tried to reconcile the accounts and to explain the discrepancies by submitting that the stock received/issued on 17.01.2014, 1-8.01.2014 and 19.01.2014 were pending for passing entries in the books, inventory of stock at 4100, Naya Bazar, Delhi was taken but the same was left out from the final summary of stock, the quantity of physical stock lying at go down at Siraspur was not correctly considered in the stock summary, stock lying at various cold

storages was not considered in the stock taken and there was calculation mistake by making the final inventories. However, the AO did not accept the explanation of assessee and concluded as under:-

*"2. The submission of the assessee and various reasons given for the difference in stock have been dealt with in detail herein below:*

*a. Stocks lying with cold storages*

*The assessee has submitted that the stock lying at cold storages was not considered while carrying out the physical stock taking. In support, the assessee has submitted confirmations from some of the cold storages. However, it is seen that neither during the course of post search proceedings nor in the course of assessment proceedings, the assessee submitted any supporting documents to substantiate its claim. Even the basic documents like purchase bills, delivery challans assessee's stock register, cold storage stock register, lorry receipts, cold storage inward / outward register, etc. have not been furnished. In the absence of such basic details and documents, the submissions of the assessee and the confirmations filed are nothing but mere self-serving documents without any evidentiary value.*

*b. Sales on commission basis and consignment sales*

*The assessee has submitted that it also carries on the business of commission agents and makes sales on consignment basis. It is stated by the assessee that the ownership of such stocks is always with such suppliers / traders. It has been submitted that the Company maintains separate stock registers for goods purchased and goods received on for sale on consignment basis of suppliers and traders. The following factors are relevant for the above ground taken by the assessee.*

*(i) The assessee was asked to reconcile the stock in the course of post search proceedings. The assessee made detailed submissions*

*on the issue of difference in stock before the DDIT (Inv.) Unit VI(3) vide letter dated 03.02.2014 i.e. after nearly. 15 days from the date of search. It is seen that no such ground relating to sales on commission basis/consignment sales was taken by the - assessee while making detailed submissions in the course of post search proceedings. Thus, this clearly is a case of afterthought and cover up made by the assessee to explain the unreconciled stock."*

*(ii) The assessee has not submitted any supporting documents in the form of purchase/sale bills, delivery challans, confirmation from suppliers, stock register for such goods, etc. to substantiate its claim.*

*iii. The assessee has submitted that the ownership of such stock remained with the Suppliers / Traders and the assessee only acted CIS Cl commission agent (Arhatiya). In such circumstances, the assessee would not have entered such stock in its books as his own stock since the ownership of such stock was never with the assessee. Further, even in the submission explaining the detailed procedure of such consignment / commission sales, the assessee has explained that the assessee maintains separate accounts of the suppliers and entries are directly passed into such account by the assessee.*

*iv. In the assessee's case, the stock as per books of account is found to be much in excess of the physical stock and hence .the consignment sales and stock which are not forming part of assessee's accounts and stock register cannot help the assessee to explain the deficit in physical stock.*

*C. Purchases and Sales made during the 3 days prior to search.*

*The assessee has next submitted that purchases and sales made*

*during the period of 3 days prior to search i.e. on 17, 18 & 19 January, 2014 were not entered in the books of account. The assessee has incorporated quantity of such sales and. purchases in the chart submitted along with its submission. On perusal of the details submitted, it is seen that the assessee merely given the quantity of such purchase and sales without any supporting documents like bills, delivery challans, lorry receipts, inward I outward register, confirmation of parties, etc. Thus, the submissions of the assessee on this issue are not acceptable.*

*d. Double entries in the books.*

*The assessee has next submitted that the accountant of the firm inadvertently made few double entries of few consignments of Matar in the stock register during the month of Oct 2013. The assessee referred to the accounting software maintained by it and submitted that such double entries were pointed in the 'stock entry check list' of the software. It is 'observed that the assessee did not take any such ground while explaining the difference in stock in the course of post search proceedings and therefore this is again a clear case of afterthought. The same is further substantiated by the fact that the assessee has not furnished any supporting documents whatsoever in support of its submissions. Thus, the submissions of the assessee without any supporting documents and evidence cannot be accepted.*

*e. Mistakes in the physical stock taking.*

*The assessee has next contended that there was total confusion and chaos and the stock position was compiled in a hurried manner and thus mistakes occurred in the stock statements. However, it is seen that neither during the course of post search proceedings nor*

*in the course of assessment proceedings, the assessee has pointed out any specific mistakes in the physical stock taking. Thus, the submissions of the assessee in this regards are mere loud statements without any basis and have no evidentiary value*

*f. Shortage.*

*The assessee has next submitted that considering the nature of business of the assessee, shortages occur at various stages and shortages of 0.50% to 1.50% are quite normal. The assessee has thereafter explained the reasons for such shortages. It is seen that once again the assessee has made a general statement without any specific details. The difference in the stock in the assessee's case is huge and such shortages cannot explain such huge difference in any manner. Further, in the reconciliation statement, the assessee has not provided any details as to how much shortages the assessee has considered to explain the difference in stock.*

*In the circumstances, it is seen that the assessee has not been able to provide reconciliation of such a huge difference in the stock as per books of Rs. 43,65,74,450/- and stock found during the course of search of only Rs. 14,03,58,319/. The assessee has not provided detailed item-wise, quantity-wise and value-wise reconciliation of such difference. Further, the assessee has not provided any documents / evidences in respect of various claims made by him to explain the unreconciled stock. The various grounds taken by the assessee have been dealt with in detail in the preceding paragraphs and the same are found to be not acceptable. Accordingly in view of the above stated facts, the books of accounts maintained by the assessee company are hereby rejected. In the circumstances an amount of Rs. 29,19,40,361/ - being the difference between the stock as per books of account and physical stock found during the course of search is added to the total income of the assessee."*

5. Before the Ld. CIT(A), it was submitted that the difference in stock as worked out by search party was duly explained during post search proceedings before DDIT(Inv), Unit-VI(3), New Delhi as well as during assessment proceedings before AO. As per appellant, the AO could not raise any objection on the specific details given by it reconciling the difference and but rejected the submissions without any basis by giving general remarks only. The submissions of the appellant are as under:-

"5.1 Sub : Appeal against order u/s 143(3) of the Income Tax Act, 1961. Respected Sir,

*In connection with the hearing in the aforesaid appeal, it is respectfully further submitted as under:-*

1. Explanation for the discrepancies in the physical stocks taken on 20.01.2014

*i) The assessee carries the wholesale business of purchase and sale of pulses from the shop situated at 4088, Naya Bazar, Delhi - 110006 both in own account and on arhat (commission) basis. The assessee has taken godowns on rent situated at Siraspur, Delhi for storing stocks of pulses and food grains. The assessee also keeps stocks with cold storages which are mostly in Kundli, Haryana. The assessee has earned a total commission of Rs.3.88 Crores from consignment sales and also carried sales of Rs. 112.48 Crores in its own account during the assessment year 2014-15.*

*The assessee receives pulses and food grains from the traders and suppliers to be sold on commission basis. The said stocks are stored at shop /Godowns /cold storages and entered in the stock registers in the name of the suppliers.*

*It is a prevalent trade practice in the local market that the sales are made through local dalals. The delivery of goods is mainly made from godowns at Siraspur because of traffic restrictions in the city. The godown keeper also maintains a manual stock register on daily*

*basis. The assessee charges commission (Arhat) from the customers at the time of sales and add the same in sale bills. The assessee issues sale statements to the traders and suppliers and settle their accounts. It may be noted that the ownership of such stocks always remains with the traders and suppliers and the assessee firm acts as a commission agent (Arhatiya) only.*

*ii) The Ground no. 2, 2.1 & 2.2 have been raised by the assessee against the additions made on account of shortfall in stocks as per the inventories prepared by the search parties on 20.01.2014 and as compared with the books and treated the shortfall as income of the assessee for the assessment year 2014-15 as under: -*

<i>S. No</i>	<i>Particulars</i>	<i>Amount (Rs.)</i>
<i>1</i>	<i>Value of Inventories taken by the search team from various premises on 20-01-2014</i>	<i>14,03,58,319.00</i>
<i>2</i>	<i>Value of Inventories as per books of accounts as on 20.01.2014</i>	<i>43,65,74,450.00</i>
<i>3</i>	<i>Shortfall in Physical Stocks as on 20.01.2014</i>	<i>9,19,40,361.00</i>

*It is very important to note that this is not the case of excess stocks found in possession of the assessee and thus no additions could be made on account of shortfall in stocks while completing the assessment.*

*iii) The assessee filed a detailed explanation vide letter dated 03-02-2014 before DDIT, Unit VI(3), Jhandewalan, New Delhi reconciling the discrepancies between the physical stocks taken by various Income Tax Investigation teams and the books of accounts as on 20-01-2014. A copy of the letter dated 03.02.2014 filed with DDIT Inv VI(3) is enclosed herewith. It was explained as under: -*

- a) That goods received and issued on 17-1-2014, 18-1-2014 and 19-1-2014 were pending for passing entries in the books.*
- b) That the inventory of stocks at 4100, Naya Bazar, Delhi was taken but the same was left out from the final summary of stocks.*

- c) *The quantities of physical stocks lying at godowns at Siraspur were quite large and as a result, the same were not correctly considered and the weight of few items was wrongly recorded in the stock summary.*
- d) *The physical stocks kept at various cold storages were not considered in the stock taking.*
- e) *That there were calculation mistakes while making final inventories. The assessee has made the explanations in respect of each and every item of stocks and reconciled completely the physical stocks with the book records.*
- iv) *The DDIT, Unit VI(3), Jhandewalan, New Delhi in order to verify the genuineness of stocks kept with cold storages issued summons u/s 131(1 A) to the principal officers of the cold-storages. The concerned cold- storages also complied with the notices and filed the required details and confirmations. The DDIT has also brought these facts in his report. However, these important facts have totally been ignored by the AO while passing the assessment order and he went on to make additions on wrong premises without affording any opportunity to the assessee to clarify his position thereby ignoring the Principles of natural justice.*
- v) *That the learned DCIT has grossly erred and is highly unjustified in rejecting the books of accounts without pointing any specific mistakes and ignoring the detailed item-wise reconciliation of stocks filed during the assessment proceedings along with documents. Thus the assessment order passed by the DCIT is invalid and bad in law and passed without any basis whatsoever. The AO has also given various frivolous reasons in the assessment order to reject the explanation of the assessee. The grievance of the assessee is also that he was not given any opportunity for making further clarification in the matter. It is para wise explained as under:-*

a) *The learned DCIT has grossly erred in stating that the assessee*

*did not submit item wise, quantity wise and value wise reconciliation of stocks as per books of accounts and stock found during the course of search. The AO has further wrongly concluded that no detailed reconciliation of the stocks explaining the difference was provided by the assessee.*

*In this regard, it is submitted that the assessee had also filed an explanation with DCIT vide letter dated 23.03.2016 and placed on record documents / details as under :-*

<i>i.</i>	<i>Details of stocks as per seized books and adjustments of pending transaction for 17.01.2014, 18.01.2014 &amp; 19.01.2014.</i>
<i>ii.</i>	<i>Reconciliation explaining the differences between physical stocks and the books of accounts as on 20.01.2014.</i>
<i>iii.</i>	<i>Breakup of inventories made by the search party</i>
<i>iv.</i>	<i>Item-wise list of stocks lying at 4100, Naya Bazar</i>
<i>v.</i>	<i>Item-wise list of stocks kept at various cold storages along with their confirmations.</i>
<i>vi.</i>	<i>Discrepancies in the physical inventories</i>

*A copy of the said letter dated 23.03.2016 has already been placed on record before your honour. Thus the AO has not considered the reply on merits and simply brushed aside all the evidences as submitted during the course of assessment proceedings in a very prejudiced and biased manner.*

*b) Stocks kept with cold storages*

*i) It is submitted that the assessee deals in various agro commodities which are kept in cold storages to preserve its moisture and to prevent from being damaged due to insects. During the course of search proceedings, the inventories were prepared by the search party at godowns and the shops. After when the omissions were pointed out by the assessee during the post search investigations, the DDIT, Unit VI(3), Jhandewalan, New Delhi issued summons u/s 131(1A) to the cold-storages In order to verify the*

*genuineness of stocks kept in cold storages. The concerned cold-storages duly submitted their confirmations before the DDIT Unit VI(3), Jhandewalan, New Delhi. This fact was also brought to the knowledge of the DCIT by the assessee during the course of assessment proceedings. A list of such cold storages along with addresses is given as under:-*

S. No.	Name of the Cold Storage	Address	PAN
1.	Gulshan Ice & Cold Storage Pvt Ltd.	153, HSIDC, Kundli Haryana	AACCG0494M
2.	Lohani Ice & Cold Storage	22, HSIDC, Kundli, Haryana	AABPL5818N
3.	M.C. Luthra Ice & Cold Storage	83, HSIDC, Kundli Haryana	AA AHL1212K
4.	R.J. Cold Storage Pvt Ltd.	12, HSIDC, Kundli Haryana	AAACR7026G
5.	Sai Kripa Ice & Cold Storage Pvt Ltd	166-167, HSIDC, Kundli Haryana	AAACS2823G
6.	Vijay Laxmi Cold Storage	Near Lakhmi Piao village Kundli Haryana	AABCK5313L
7.	Vikram Ice & Cold Storage	23, HSIDC Kundli Haryana	AABPL5820C

*The assessee has filed complete item-wise list of stocks giving break up of bags & weight deposited with various cold storages and the confirmed stock statements of the cold storages giving lot no., receiving date, Item, packing, quantity and the balance quantity.*

*ii) The assessee further placed complete details of charges paid to cold storages on which tax was also deducted at source during the assessment year 2014-15. The copies of accounts of all the aforesaid cold storages as appearing in the books of accounts for the assessment year 2014-15 are enclosed herewith. The DCIT was also in possession of hard discs containing complete books of accounts which were seized as A-1 to A-4 of SB-31 from the Naya Bazar shop. The said hard discs contained books of accounts*

written upto 17/18.01.2014 and consisted of cash book, bank book, sale & Purchase registers, item wise stock registers, ledgers and other details as are required for the completion of assessment. The DCIT could have verified the facts from the hard discs but he did not carry any verification and did not discharge his primary onus at all.

iii) During the course of search at the residence of Shri Rajinder Prasad Singhal a Director of the company, certain loose papers were found and seized from his possession as Annexure A-I of 5H-2 on 20.01.2014. The seized record consists of Delivery notes and gate pass cum challan along with Dharamkanta slips for forwarding the commodities to the Lohani Ice & Cold Storage, Vikram Ice & Cold Storage, M C Luthra Ice & Cold Storage, Vijay Laxmi Cold Storage, R P Cold Storage & Sai Kripa Cold Storage. The relevant photocopies of the said seized record are enclosed herewith. The said delivery notes give complete details of items date of dispatch, Quantity etc. The goods were dispatched by the assessee to the said cold storages during the period from 14.01.14 to 19.01.14. Thus the DCIT was in possession of sufficient evidences in original in the shape of delivery notes, gate pass cum challan and Dharamkanta slips. But the DCIT did not verify the said evidences and rejected the explanation in a summary manner.

iv) Similarly, during the course of search at Siraspur godowns, certain loose papers/ tak patties and stock registers were found and seized as Annexure A-3 & A-4 of RB-37 on 20.01.2014. The page nos 1 to 22 consisted of delivery challans for sending goods to Sai Kripa Cold Storage, Kundli during the period from 05.12.2013 to 12.01.2014. The photocopies of the said seized records are also enclosed herewith. The said challans give details of items, date of dispatch, quantity, etc. The goods were dispatched by the assessee to the said cold storage along with Delhi DVAT Form 3. Thus the DCIT was already in possession of the original evidence in the shape of delivery notes and Delhi Vat Forms as such could not deny

these facts.

v) It is very important to note from the assessment order that the DCIT has never carried any enquiries or verifications from the cold storages by issue notices under section 131(1A) / 133(6) of the Act for the confirmation of stocks kept with various cold storages. The DCIT has simply kept quiet and did not discharge his onus on the matter and made additions in a biased manner defying the Principles of Natural Justice.

c) Sales on own account and consignment sales

i) It is further submitted that the assessee deals in various agro commodities both on commission basis and own account. It was explained that the total revenues from the business activities carried by the company during the year were as under:-

Sales & Other Operating Income	Amount (Rs.)
Sales (Net)	1,124,876,552.73
Commission on Consignment Sales	3,88,68,342.35
Total	1,163,744,895.08

ii) During the course of search proceedings, the search party made inventories of stocks kept in godowns and the shops which belonged to the assessee and the traders/suppliers who had sent goods to the assessee for sale on consignment basis. This fact was brought to the knowledge of the DCIT to explain the nature of stocks.

iii) Though the DCIT has admitted in his order that the assessee made a detailed submission before DDIT, Unit VI(3), Jhandewalan, New Delhi on the issue of differences in stocks vide letter dated 03.02.2014 yet he has rejected the said explanation simply by stating that the reply was filed after 15 days from the date of search and treated it to be an afterthought and a cover up made to explain the un-reconciled stocks.

Here the DCIT is totally incorrect and has shown his negative mind

*because it is a known fact that the large seized material is not available to the assessee on the next day of search as it takes time for everybody to settle down after the search. Even after the issue of seized material, it takes time to reconcile the information from books, registers and other sources. It also takes time to collect confirmations from third parties. Since huge stocks of 11,127.90 tons approx were kept in various godowns, shops & cold storages as such it required much labour and time to make reconciliations of large inventories of 11,127.90 MT. Thus the DCIT erred in stating that the explanation of the assessee was an afterthought exercise when most of the information was also available with the DCIT in the shape of seized records & hard discs which were seized during the course of search carried on 20.01.2014.*

*iv) Your honour's kind attention is invited to the seized material marked as Annexure A-2 of RB -37. It is register maintained by the Siraspur Godown keeper namely Mahender Singh in a routine manner on daily basis to record the stock position on each day which gives complete party-wise details of items, Quantity and the godown number. The said register gives details of stocks for the period from 24-11-2013 to 19.01.2014. These transactions show the stock of various parties held on consignment basis. The DCIT was in possession of original stock register and this fact was brought to the knowledge of DCIT who has completely disregarded this important piece of evidence to make additions without affording any further opportunity. The photocopies of the relevant pages of the said register for 19-01-2014 are enclosed herewith.*

*d) Purchase & Sales during three day prior to search*

*In this regard the AO has stated in the assessment order that the assessee has merely given the quantity of such purchase and sales without any supporting documents like bills, delivery challans etc and thus rejected the explanation of the assessee given in connection with the pending entries of goods received and delivered*

on 17-01-2014 (Friday), 18-1-2014 (Saturday) & 19-01-2014 (Sunday). In this regard, it is respectfully submitted as under:-

i. Your honour's kind attention is invited to the seized material marked as Annexure A-2 & A-3 of SH-7. The said documents are Takpatties (Delivery challans) which gives complete details of items, date of dispatch, Quantity etc delivered upto 19.01.2014. These transactions were required to be made by the accountant in the books of accounts on 20.01.2014 (19<sup>th</sup> Jan was Sunday) and were duly shown in the reconciliation statements. The DCIT was in possession of original Takpatties (Delivery challans) and this fact was brought to his knowledge who has completely disregarded this important piece of evidence to make additions without affording any opportunity. The photocopies of the said Takpatties (Delivery challans) are enclosed herewith.

ii. Similarly the seized material marked as Annexure A-5 to A-8 of SB-31 seized from Naya Bazar Shop are sale bills which gives complete details of items, date of dispatch, quantity etc from 09.01.14 to 18.01.14. The relevant pages thereof are enclosed herewith. The pending transactions were required to be made in the books of accounts on 20.01.2014 and were duly shown in the reconciliation statements. Here again the DCIT was in possession of sufficient evidences in the shape of delivery notes, gate pass cum challan and has completely disregarded the same to make additions. A chart showing details of pending sale bills and material received is enclosed.

iii. These facts were brought to the knowledge of the DCIT who has completely disregarded these evidences to make additions without affording any opportunity. In this manner the assessee has discharged its onus to prove the pending sale and purchase transactions to reconcile stocks as on 20.01.2014.

e) Double entries in the books

*It is respectfully submitted that the DCIT was informed in the letter that the accountant had inadvertently passed double entries of 5 consignments of Matar weighing 1480.50 MT in the stock register during the month of Oct 2013. A 'stock entry check list' of Matar and the 'stock register' for the relevant period were also filed. It was submitted that the assessee used 'DOS' based accounting software 'NEWFAS' for the past many years. It may please be noted that the check list only display the agreed quantities receivable from the parties and the goods are entered in the stock register only at the time of actual receipt. It would be seen that the entire transactions appearing in the 'stock entry check list' are matched with the entries in the stock register except the double entries. The accountant inadvertently made a mistake in the 'stock check list' and the same needed rectification.*

*The AO has rejected the claim of the assessee stating one reason that the assessee did not take any such ground before DDIT VI(3) while explaining the difference in stocks in the course of post search proceedings and therefore it was a dear case of afterthought. In this regard, it is respectfully submitted that the DCIT has completely brushed aside the reply dated filed with DDIT VI(3). The assessee had clearly pointed out at para no. 4.1 of page 3 about the mistake committed by the accountant and also furnished Stock Check List from 01.04.2013 to 20.01.2014 and Matar Trading Account showing the quantities and values of purchase and sale for the same period. This fact is also verifiable from the letter dated 03.02.2014 filed with DDIT VI(3) and a copy thereof has been enclosed with these submissions. Thus, the DCIT has totally erred in rejecting the submission of the assessee on a frivolous ground even when he was in possession of seized material and the books of accounts in the hard disc,*

f) Mistake in physical stocks taken

*The DCIT has rejected the claim of the assessee by simply stating*

*in the assessment order that the assessee did not point out such mistakes in the physical stock taking before DDIT VI(3) in the course of post search proceedings and again during the course of assessment proceedings.*

- i) In this regard, it is respectfully submitted that the DCIT has again brushed aside the reply dated 03.02.2014 filed with DDIT VI(3), New Delhi. The assessee had clearly pointed out to DDIT VI(3) at para no. 7 of page 3 of the letter that the stock statements were prepared on the basis of no. of bags/ kattas multiplied by the standard weight. It was during midnight around 1.30 AM when all the search parties assembled at 4088, Naya Bazar, Delhi. There was a total confusion and chaos in the shop. As a result, the stock position was compiled in a hurried manner and thus mistakes occurred in the stock statements. A copy of the letter dated 03.02.2014 filed with DDIT VI(3) has been enclosed with these submissions.*
  
- ii) The DCIT was again informed by the assessee vide letter dated 23.03.2016 about the mistakes in the inventories taken by the search team on 20.01.2014. Thus, the DCIT has rejected the submission of the assessee not on merits but on one reason that the assessee has neither pointed out such mistakes during the course of post search proceedings nor during the course of assessment proceedings. Thus the assessee is entitled to complete relief on this very ground that the assessee had raised this issue before DDIT(Inv) Unit VI(3).*
  
- iii) It is further explained para wise as under: -*
  - a) Out of the total stocks of Urad weighing 279,750 Kg, a quantity of 30,000 Kg was in sortex and the balance 249,250 Kg was kept at godown no 24. The details of Urad were given by the godown keeper to the search party. The same were*

*duly physically verified and also appeared in the stock register at page no 35/36 maintained by Mahendra Singh at Siraspur Godowns. However while recording final stock tally the said stocks of Urad were wrongly considered in excess by 59,950 Kgs.*

- b) The stocks of Arhar weighing 504,000 Kg of a party were kept in godown no 22 and the details were given by the godown keeper to the search party. The said stocks were duly physically verified and also appeared at page no 35/36 in the stock register maintained at the Godown by Mahendra Singh. However while recording final stock tally the said stocks were wrongly considered in excess by 77,100 Kgs.*
- c) The correct quantity of Chana was 11,667 Katta of 50 kg each found at godown and however the same was considered as 1,167 Katta of 50 kg each in the final stock statement. As a result 10,500 Kattas of 50 kg each has been taken short. Thus was considered was taken short by 5,25,000 Kgs. The photocopies of the relevant page no 35 to 40 of the seized register from the godown marked as Annexure 2 of RB-37 are enclosed herewith. Thus the DCIT has totally erred in rejecting the submission of the assessee on a frivolous ground.*

*g) Shortages*

*It was submitted that the shortages occurred in the business of food grains and pulses at various stages and the shortages of 0.50% to 1.50% was quite normal. The reasons for shortages were given as under: -*

- a) During transit the bags are torn, mouth open, rat eaten, insect damaged and part contents are spilled out.*
- b) A number of bags are damaged due to use of hooks at the time of loading and unloading which results in the spillage of the contents either in loading / unloading or in transit.*

- c) *At times there is a loss in weight due to theft, pilferage and mishandling of the goods by the labour.*
- d) *There are shortages due to drying up of the moisture in the pulses during transit and storage.*
- e) *Shortages mean a small loss of goods and it is a common feature in the trade of the assessee and it occurs every time during the course of handling.*

*However the DCIT has misunderstood the said explanation and treated the same as an explanation for the difference in physical stocks. The AO has further stated that the assessee did not provide any details as to how much shortages the assessee wanted to explain. The assessee had very clearly stated in the chart the shortages to be of 3,990 Kgs valued at Rs. 5,83,870/- as on 20.01.2014. The DCIT has totally ignored the said explanation and proceeded in a mechanical manner.*

*vi) It is respectfully submitted that the learned ACIT has wrongly stated in his remand report dated 04-11-2016 that the assessee has not furnished any convincing explanation for the shortages of Rs. 29,19,40,361/- in the physical stocks taken on 20-01-2014. The ACIT has further alleged that the assessee has neither been able to provide reconciliation of the alleged shortages of Rs. 29,19,40,361/- nor provided any detailed item-wise, quantity-wise and value-wise reconciliation of the differences in the physical stocks nor provided any documents /evidences in respect of such claims. He has not uttered a single word about the detailed explanation on the discrepancies and simply rejected the reconciliation of stocks in a very casual manner to justify the earlier stand of his predecessor. The ACIT has again misunderstood that this was not a case of excess stocks.*

*vii) Sir, a summary of reconciliation of physical stocks and*

*the books as on 20-01-2014 is given as under:-*

S.No.	Particulars	Quantities(Kgs.)
1	Inventories taken by the search team from various premises on 20-01-2014	3,231,770.00
2	Inventory of stocks at 4100, Naya Bazar, Delhi taken but was left out from the final summary of stocks.	44,180.00
3	Physical stocks kept in Godowns not considered in the stock taking	3,152,260.00
4	Physical stocks kept in various cold storages not considered in the stock taking	4,311,740.00
5	Calculation mistakes while making final inventories	387,950.00)
	Total Physical Stocks as on 20.01.2014	11,127,900.00

*viii) It is very important to note that this is not the case of surplus or excess stocks found in the possession of the assessee and thus the addition made on this account is without any basis whatsoever.*

*ix) The assessee had filed details of monthly purchases and details of top 20 parties giving names, addresses and the amounts from whom the company made local purchases during the year.*

*x)The assessee earned a total commission of Rs. 3,88,68,342.35 from consignment sales during the assessment year 2014-15. Month wise and party-wise details of arhat / commission income earned and TDS were also filed.*

*xi) Month wise details of Bikri expenses, Godown rent for agricultural produce & Insurance premium reed against consignment sales were filed*

*Xii) A list of Sundry Debtors and Sundry Creditors with addresses with balances of more than Rs. 5 Lacs were filed. A list of Trade Advances with balances exceeding Rs. 5 Lacs and the confirmed copy of accounts of few parties were also filed.*

*xiii) A year-wise comparative chart of sales, gross profit & net profit*

*ratio for the assessment year 2008-09 to 2014-15 is again enclosed herewith. It would be appreciated that there is a gradual increase in the gross profit & net profits ratios for Che each of the assessment year and that the trading results have been accepted year after year.*

*xiv) It is important to note that no such evidence or loose papers were found during the course of search to prove that the assessee was engaged in making purchase and sale outside the books. Had this been the case; the cash would have flowed to the assessee and would have been found during the course of search. The search party has found cash from the shop which was also as per the books of accounts.*

*xv) The assessee's books of accounts are regularly maintained, audited and no discrepancies whatsoever have been indicated by the Assessing Officer in any material terms. Thus the conclusion of the Assessing Officer in this behalf to reject the books is purely based on surmises and conjectures. The DCIT has not brought any material on record to prove that the assessee had made sales outside the books. Even the assessee has filed explanation at the first opportunity before DDIT after the search. Thus without considering the explanation of the assessee, the addition of Rs. 29,19,40,361/- in the shortfall in stocks has been made as a fictional work of guesswork and conjectures. The whole addition therefore is nothing but interplay of surmises and conjectures arrived at by Assessing Officer to make the addition.*

*In view of the above explanation and facts of the case, it is submitted that the addition of Rs. 29,19,40,361/- made on account of alleged shortage in stocks may please be deleted."*

6. The Ld. CIT(A) has called for the report from the AO regarding the explanation given by the assessee and the rebuttal thereof if any. The AO vide report dated 04.11.2016 submitted to the

Id.CIT(A) which is as under :-

*"(i) Discrepancies of stock taken during the course of search:- During the course of search and seizure operation at the office and godown premises of RBRL company, physical stock of Rs. 14,03,58,319/- was found as compared to stock of Rs. 43,65,74,450/- as per the books of accounts. In this regard, the assessee was asked to explain the same during the search proceedings and post search investigation/enquiries. But the assessee was not furnished any convincing explanation. Further, the assessee vide its letter dated 23.03.2016 has furnished the reasons for explanation of difference in stock. The assessee has not able to provide reconciliation of such a huge difference in the stock as per books and stock found during the course of search. Further, the assessee has not provided detailed item- wise, quantity-wise reconciliation of such difference and also not provided any documents/evidence in respect of various claims made by him to explain the unreconciled stock. Therefore, difference of the same (Rs. 29,19,40,361/-) is correctly added to the income."*

7. The Ld. CIT(A) has deleted the addition holding as under :-  
(The relevant part of the adjudication of the Ld. CIT(A) is reproduced )

*" The AO has firstly dealt with the stock lying in the cold storages. As per him, neither during the course of post search proceedings nor assessment proceedings, the assessee could submit any documentary evidence to substantiate its claim. Even the basic documents like purchase bills, delivery challans, stock register, cold storage inward/outward register were not furnished. In absence of these documents, AO held that the submissions of the appellant and confirmations filed by it are nothing but mere self-serving*

*documents without any evidentiary value. Contrary to this, appellant has claimed that the confirmations were filed by cold storages in response to summons u/s 131(1A) issued by DDIT (Inv), Unit-VI(3), New Delhi, by giving item wise list of stocks mentioning lot no., receiving date, details of items and packings, quantity and break up of bags and weight deposited with various cold storages. It is further submitted that the seized records consist of delivery notes and gate passes cum challans along with Dharmkanta slips for forwarding the commodities to various cold storages and all these records are in possession of the assessing officer. The other details given by appellant as per aforesaid submissions support its claim that the huge quantity of stock it was holding was not considered while preparing the inventory stock. In the light of these facts, now the issue has to be examined. As can be seen from the submissions of the appellant and details filed during the appellate proceedings, immediately after the search on 20.01.2014, appellant reconciled the difference in stock vide letter dated 03.02.2014 submitted to DDIT(Inv), Unit-VI(3), New Delhi, wherein the complete details of stock lying in cold storages, by mentioning the lot no., receiveing date, name of item, packaging description, rate, lot, quantity and balance quantity etc, were filed with the claim that the same were not considered by the search party while preparing the inventory of stock. The DDIT (Inv) issued summons u/s 131(1A) also to these cold storages and in response to the summons, confirmations were filed by them confirming the stock of appellant lying with them. Subsequently, during the assessment proceedings also, appellant again reconciled the difference by explaining the discrepancies in inventories of stock, vide letter dated 23.03.2016, wherein again the complete details of stock lying at cold storages, was filed. Since the difference in stock was reconciled by appellant, supported with documentary evidence, AO was asked by my predecessor to | give a factual report on the*

*issue of discrepancies of stock in the light of § details and documents filed by appellant during the appellate proceedings. The AO, vide his letter dated 04.11.2016, gave his remarks as under: -*

*"(i) Discrepancies of stock taken during the course of search:- During the course of search and seizure operation at the office and godown premises of RBRL company, physical stock of Rs. 14,03,58,319/- was found as compared to stock of Rs. 43,65,74,450/- as per the books of accounts. In this regard, the assessee was asked to explain the same during the search proceedings and post search investigation/enquiries. But the assessee was not furnished any convincing explanation. Further, the assessee vide its letter dated 23.03.2016 has furnished the reasons for explanation of difference in stock. The assessee has not able to provide reconciliation of huge difference in the stock as per books and stock found during the course of search. Further, the assessee has not provided detailed item- wise, quantity-wise reconciliation of such difference and also not provided any documents/evidence in respect of various claims made by him to explain the unreconciled stock. Therefore, difference of the same (Rs. 29,19,40,361/-) is correctly added to the income."*

**5.4.2** *In view of the above, it can be seen that the appellant has successfully reconciled the difference on account of stock found at cold storages by giving item wise, quantity wise and value wise details supported with documentary evidence whereas AO has brushed aside the details and evidence submitted by appellant by giving a general remark that those are only self-serving documents without any evidentiary value) Contrary to this, appellant has furnished all the specific details and documentary evidence in support of his claim, and AO has failed to raise any specific objection in the details given by appellant during the assessment proceedings as well as remand proceedings. In view of this, it is*

*held that the AO has wrongly not considered the stock of appellant lying with cold storages while computing the difference in stock.*

*5.5 The second objection raised by AO pertains to the stock related to be sold on commission/consignment basis. It has been alleged by AO that the appellant failed to make any such ground during post search enquiry before DDIT(Inv) and subsequently also did not submit any supporting documents in the form of purchase/sale, delivery challans, confirmations from parties/suppliers and also that ownership of such consignment sales remains with commission agents (arhatiya), not with the assessee. Contrary to this, the appellant has submitted that evidence of such stocks was seized as RG-37 of Annexure-2, which gives the details of stocks for the period from 24.11.2013 to 19.01.2014 and AO himself could have verified the details of stock on consignment basis from this register. During the appellate proceedings also, the appellant has furnished the copies of said register to demonstrate that it was maintaining stock on consignment basis also and the same ought to have been considered by AO while working out the difference in 1 stock. However, as can be seen from the chart given for reconciliation of stock vide letter dated 03.02.2014 to DDIT(Inv), appellant has furnished the details of stock belonging to suppliers but received by appellant to be sold on consignment basis. During the assessment proceedings also, these details were provided to AO. Moreover, the register as per Annexure-A-2 of RG-37, which contains the details of such stock from 24.11.2013 to 19.01.2014, was in possession of AO but he did not even care to verify the details of it with the inventory of stock and by giving a general remarks that the reconciliation given by appellant was an afterthought, summarily rejected claim of the appellant. He should have raised specific objections in the details/documents submitted*

*by appellant before rejecting it but the same has not done. Even during the remand proceedings, AO has failed to raise any specific objection in the reconciliation submitted by appellant and documentary evidence filed in support of it. In such situation, the conclusion drawn by AO cannot be supported.*

*5.6 The third objection raised by AO in the reconciliation of appellant is that in respect of purchases and sales made during the three days prior to search, assessee could not furnish the documents like bills, delivery challans, lorry receipts, confirmation of parties, etc. therefore, its claim is not acceptable. However, it can be seen from the submissions of appellant that the details of purchases and sales made on the dates of 17.01.2014, 18.01.2014 & 19.01.2014 were submitted to AO during the assessment proceedings by giving description in respect of each and every entry of the stock to which the AO failed to find any default. Moreover, as mentioned by appellant, the AO was in possession of delivery challans, seized as per Annexure-A-2, A-3 and SH-7, representing the details of items, dates of dispatch, quantity etc. delivered upto 19.01.2014. Similarly, the sale bills seized as per Annexure-A-5 to A-8 of SD-31, seized from Naya Bazar Shop, give complete details of items, date of dispatch, quantity etc. from 09.01.2014 to 18.01.2014. All these transactions were pending to be entered in, the books of account of appellant j on 20.01.2014, i.e. the date of search However, in place of examining the seized material in possession of AO himself, he rejected the submissions of the appellant by giving general remarks that the details given by appellant was not supported with documentary evidence. Once the complete details were in his possessions, he could have verified these details from the reconciliation given by appellant] But the same has not been done. Even during the remand proceedings, AO has failed to raise any specific objection in the reconciliation submitted by appellant and documentary evidence filed in support*

*of it. In such situation, the conclusion drawn by AO cannot be supported.*

*5.7 The fourth objection raised by AO that the claim of the appellant that there were few double entries of few consignments of Matar in the stock register during the month of October, 2013 which was made inadvertently by the accountant of the company, was nothing but an afterthought as any such ground was not taken by it during the course of post search proceedings. However, as mentioned by appellant, this issue was raised by it during the assessment proceedings by submitting that the accountant had inadvertently passed double entries of 05 consignments of Matar weighing 1480.50 MT in the stock register during the month of October, 2013. In support of its claim, 'stock entry checklist' of Matar and the 'stock register' for the relevant period was also filed. These details were filed to DDIT(Inv) also vide letter dated 03.02.2014 to which the AO has wrongly stated that the assessee did not take any such ground during the post search proceedings and, therefore, it is a case of afterthought. (/The details given by appellant clearly show that the entries dated 02.10.2013, 03.10.2013, 04.10.2013, 08.10.2013 & 09.10.2013 have been entered twice with the identical details in the stock register. However, the AO has failed to give any comments on the repetition of these entries, except that it was an afterthought. The comments of AO are without any basis and cannot be accepted.*

*5.8 The next objection raised by the AO in respect of reconciliation of stock is that the claim of the appellant that mistake occurred by search party while taking the stock statement, is mere loud statements without any basis and have no evidentiary value. However, as per the details given by appellant during the appellate proceedings, it is clear that vide letter dated 03.02.2014, appellant*

*had informed the DDIT(Inv) that there were mistakes in the stock statements taken by search party. Similar submissions were given during the assessment proceedings also. These mistakes occurred in the commodities namely Urad, Arhar and Chana with the difference of 59950 Kgs, 77100 Kgs & 525000 Kgs respectively .The complete details of these differences have been filed during the appellate proceedings also which was forwarded to AO for his comments but he failed to raise any specific objection on this issue in his remand report.) In view of this, the conclusion drawn by AO that the appellant could not point out any specific mistake in the physical stock taken is baseless and not acceptable.*

*5.9 The last objection raised by AO in the submissions of the appellant is that the claim regarding shortage of 0.5% to 1.50% are only a general statement without any specific dates. However, during the assessment proceedings as well as appellate proceedings, appellant has given several reasons for the shortage of stock such as loss in weight due to theft, pilferage and mishandling of goods, shortage due to drying up of the moisture in the pulses during transits and storage, damage due to use of hooks at the time of loading/unloading' which results in spillage of the material, etc . In this process, the appellant has claimed that the shortage of 3,990 Kgs of pulses are normal. However, the AO has not raised any objection on the reasons given by appellant while reconciling the stock position. During the remand proceedings also, AO failed to give any comments on the reasons given by appellant for shortage of stock. In such situation, the ground taken by AO is not justified and cannot be supported.*

*5.10 In view of the above discussion, it can be seen that the assessee has successfully reconciled the difference in stock as physically found during the search proceedings and as entered in*

*the books of account. Each and every objection raised by AO has been convincingly replied by appellant. The objection of AO that the appellant could not provide detailed item wise, quantity wise and value wise reconciliation of difference in stock is without any basis and without finding any defect in the details filed by appellant. Neither during the assessment proceedings nor remand proceedings, AO could find any defect in the details given by appellant or documentary evidence furnished by it to-reconcile the stock position. All the conclusions drawn by AO under various sub-heads of stock position, stock details, are based on general presumption and without assigning any specific reasons. He has simply brushed aside the details given by appellant and gone to the extent that the same were not submitted during the post search investigation though the copies of letters filed by the appellant clearly show that the complete details were filed by appellant during the post search enquiry as well as during assessment proceedings. In such situation, the difference of Rs. 29,19,40,361/- in the stock position, as worked out by AO, is not substantiated with facts and evidence.”*

8. Before us during arguments the respective counsels reiterated their arguments taken up before the revenue authorities.

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

10. We find that Ld. CIT(A) has met each and other objection raised by the Assessing Officer. The remand reports have been duly dealt with. We agree with the reasons that the shortage of stock is due to

- Non-entry of bills received.
- Reconciliation of stock at Naya Bazar and Sirasapur.

- Confirmations from the cold storages.
- The range of shortage of 0.50% to 1.50% in the grain industry.
- Losses in drying, spillage, transit.
- Sale on own account and consignment sales.
- Physical stocks capital godowns.
- Availability of challans and stock register.
- Submissions before the DDIT (INV) and the reconciliation.

Hence, we decline to interfere with the decision of the Ld. CIT(A) on this issue.

### **Unexplained cash:**

11. As per AO, on the date of search, as per books, cash in hand was Rs. 88,46,891/- whereas cash of Rs. 39,92,000/- only was found at the premises. The accountant of the assessee company could not explain the difference of cash and was also unable to establish that the entire cash belonged to appellant company only. However, the assessee vide letter dated 29.03.2016 explained the source of cash and in support of that, filed the extracts of cash book for 19.01.2014 and 20.04.2014. The explanation of assessee was not accepted by AO holding it an afterthought on the ground that on the date of search, accountant of assessee company failed to explain the source of the said cash.

12. Before the Ld. CIT(A) it was argued that the reconciliation has been already provided to the AO who has refused to consider the submissions. The submission of the assessee before the Ld. CIT(A) are as under :-

"2. Additions of Rs. 39,92,000/- on account of cash found from shop

2.1 *The Ground no. 3 & 3.1 have been raised against an additions of Rs. 39,92,000/- on account of cash found from the Naya Bazar shop during the course of search as unexplained income of the assessee.*

2.2 *That the learned ACIT has stated in his remand report dated 04-11- 2016 that the explanation furnished by the assessee on the cash of Rs. 39,92,000/- found from the shop is only afterthought. The AO has totally ignored the evidence available in his possession and also rejected the explanation of the assessee. The learned ACIT has given no reason for the rejection of the explanation as the books of account showed sufficient cash balance of Rs. 49,35,405.52 as on 20.01.2014 and he simply rejected the reply in a very casual manner to justify the earlier stand. The learned ACIT has also not considered the fact that this was not a case of more cash was found during the course of search than the cash balance as shown in the books.*

2.3 *The brief facts of the case are that during the course of search a sum of Rs. 39,92,000/- was found in possession of the assessee as on 20-01- 2014. There was an opening cash balance of Rs. 88,46,891.35 as per the seized books of accounts written up to 17/18-01-2014. After passing the pending transactions for 17.01.2014 & 18.01.2014 the correct opening cash balance as per the books of accounts was Rs. 49,35,405.52 as on 20-01-14. A reconciliation statement of the cash balance as on 20-01-2017 is enclosed herewith.*

2.4 *No conclusive material has been brought by the DCIT on record to prove that the cash found was other than what was appearing in the books and also that the cash found short during search at business premises was utilized somewhere else. The books of account, receipt books, etc., which are under seizure of the Department, are sufficient documentary evidence to support the explanation tendered by the assessee.*

2.5 *Sh Sudesh Bansal the accountant of the company was put*

*specific questions during the course of search in the statement recorded under section 131(1 A). A photocopy of the said statement is also enclosed herewith. The accountant has specifically stated in answer to question no 3 that the cash and stocks of RBRL Agro Commodities Ltd were kept in this premises. In answer to question no 7, the accountant also stated that the cash as per the books was Rs. 88,46,891 -35 out of which an amount of Rs.40 Lacs was deposited in bank on 17-01-14 and 18-1-14 for which he provided the bank statement. He further stated that the cash balance thereafter was Rs. 48,46,891/35. Thus the entire cash found in possession of the assessee was within the balance as per the cash book.*

*2.6 It may please be noted that the DCIT has put more weight on the difference of Rs. 9 Lacs in physical cash rather than appreciating the fact that Rs. 39.92 Lacs found in cash was within the cash balance as shown in the books of accounts.*

*2.7 It is a common practice that cash of family concerns is taken to residential premises after the close of business and is handled from the residence. Sh Jai Prakash Singhal, a director of the company was in possession of Rs. 9.00 Lacs of RBRL Agro Commodities Ltd for safe custody. Sh Sanjay Singhal, a director of the company had categorically mentioned in his statement that the cash was handled on the weekends in their home and as he was travelling. It was decided to keep the cash at home. The director also gave a rough break up of cash belonging to various companies and firm. However the DCIT had made an addition of Rs. 37.10 Lacs in the case of Sh Sanjay Singhal for the assessment year 2014-15 on account of The said cash belonged to various concerns and was found from the residence of the said director. However this fact was accepted in appeal by hon'ble CIT(A) -28 vide order dt 24-10-16 and a photocopy thereof is enclosed herewith.*

*2.8 The AO has made a mention in the assessment order of the statement of Shri Sudesh Bansal, Accountant which was recorded under section 132(4) in the mid night. He was put under so much*

*stress that he was made to state that he was unable to explain the difference of cash and also was unable to establish that the entire cash belonged to RBRL Agro Commodities Ltd in spite of his earlier statement recorded under section 131(1A).*

*2.9 It is a matter of common knowledge that the cash belongs to the person in whose custody it is found and that he is presumed to be the owner of the said cash for all purposes. It may also be noted that no evidence was found during search which would suggest that the said cash belonged to some other person. The question is also when the cash book showed a balance of Rs. 49,35,405.52 than where was the said cash and what did the search party to find cash?*

*2.10 The assessee had filed letter to DDI Unit VI(3) New Delhi explaining the source of cash available at the shop on the date of search along with Cash Extract for 18-01-2014 & 20-01-2014 from the books of RBRL Agro commodities Ltd. The said reply has already been placed on record for your ready reference and record.*

*Thus the availability of Rs. 39.92 Lacs found at shop on 20-01-2014 stands fully explained from the books of accounts as on 20-01-2014 and thus the addition of Rs. 39.92 Lacs by the DCIT as unexplained income is highly unjustified and the same may please be deleted."*

13. The Ld. CIT(A) deleted the addition holding as under :-

*"..there was an opening cash balance of Rs. 88,46,891/- as per seized books of account written up to 17/18.01.2014 and after, passing the pending transactions for 17.01.2014 and 18.01.2014, correct opening balance as per books of account was arrived at Rs. 49,35,405/- as on 20.01.2014. It can also be seen from the statements of the accountant that as mentioned above, the opening cash balance of Rs. 88,46,891/- and thereafter deposits of Rs. 40,00,000/- in the bank on 17.01.2014 and 18.01.2014 for which*

he provided the bank statements also. However, the AO has failed to raise any objection on the details and documentary evidence filed by the appellant, rather, brushed aside the claim of the appellant by holding it as an afterthought. During the remand proceedings also, AO has failed to give any specific comments on the details filed by the appellant and repeated the same facts as are narrated in the assessment order. He has not uttered as single word about the reconciliation provided by appellant during the assessment as well as appellate proceedings. Contrary to this, the appellant has successfully reconciled the accounts and arrived at the figure of Rs. 48,46,891/- as opening cash balance as on 20.01.2014 and out of which cash of Rs. 39,92,000/- was found and seized by search party. In view of this, the cash of Rs. 39,92,000/- stands explained. The addition made by AO is deleted and grounds taken by appellant are allowed.”

14. We have gone through the reconciliation. The facts have not been in dispute. Hence, we hold that the addition is liable to be deleted and the reasoning of the Ld. CIT(A) is on cogent evidences considering in the opening balances and the cash deposits in the bank. Hence, we decline to interfere with the order of the Ld. CIT(A).

15. In the result, appeal of the revenue is dismissed.

Order pronounced in open court on 30<sup>th</sup> day of November, 2021.

Sd/-

**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

\*Binita\*

Dated : 30/11/2021

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT

Sd/-

**(Dr. B.R.R.KUMAR)**  
**ACCOUNTANT MEMBER**

- 4.CIT(A), New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.