

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "C" : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.5405/Del./2014  
Assessment Year 2008-09

M/s. Kurele Pan Products (P) Ltd., C-17, 1 <sup>st</sup> Floor, Mandawali, Delhi. PAN AACCK0043J	vs.,	The ACIT, Central Circle – 23, Room No.359, E-2, ARA Centre, Jhandewalan Extn., New Delhi - 55.
(Appellant)		(Respondent)

ITA No.5597/Del./2014  
Assessment Year 2008-09

M/s. Kurele Fragrances (P) Ltd., G-496, Gujaini, Dabauli, Kanpur. U.P. – 208 022 PAN AACCK6739K	vs.,	The ACIT, Central Circle – 23, Room No.359, E-2, ARA Centre, Jhandewalan Extn., New Delhi - 55.
(Appellant)		(Respondent)

For Assessee :	Shri Gautam Jain, Advocate
For Revenue :	Shri Surender Pal, CIT-DR

Date of Hearing :	16.11.2021
Date of Pronouncement :	22.12.2021

**ORDER****PER R.K. PANDA, A.M.**

The above two appeals filed by the respective assessee's are directed against the separate orders dated 26.05.2014 of the Ld. CIT(A)-23, New Delhi, relating to A.Y. 2008-2009. Since identical grounds have been raised by both the assessee's, therefore, these appeals were heard together and are being disposed of by this common order for the sake of convenience.

ITA.No.5405/Del./2014 – A.Y. 2008-09 :

M/s. Kurele Pan Products (P) Ltd.,

2. The facts of the case, in brief, are that the assessee is a company engaged in the business of manufacturing of Pan Masala/Gutkha. A search and seizure operation was carried-out on 19.01.2009 on Kurele Group of companies including the assessee which is a part of this group. In response to notice under section 153A issued by the A.O. on 30.11.2009, the assessee filed its return of income on 15.02.2010 declaring loss of Rs.10,72,490/-.

During the course of assessment proceedings, the A.O. noted that assessee company has received fresh share capital of Rs.5,40,00,000/-. He, therefore, asked the assessee to give information with regard to subscribed and paid-up share application and share premium with supporting documents establishing the identity and creditworthiness of the share applicants and genuineness of the transaction. From the details furnished by the assessee, the A.O. noted that assessee has received share capital of Rs.5 crores from the following 03 companies :

S.No.	Name of the Company	No. of shares allotted	Total Consideration
1.	M/s. Elar Securities Pvt. Ltd.,		1,50,00,000
2.	M/s. BPO Finance & Investment & Investment Pvt. Ltd.,		1,50,00,000
3.	M/s. Tapsya Finvestment Pvt. Ltd.,		2,00,00,000
	Total		5,00,00,000

2.1. In order to verify the identity and creditworthiness of the above share applications and genuineness of the transaction, the A.O. issued notice under section 133(6) of the I.T. Act, 1961 to the above

companies calling for certain details. However, these letters remained uncomplied with. The A.O, therefore, confronted the same to the assessee. The assessee, in response to the said query, submitted that they had received share application money/share capital of Rs.5,00,00,000/-. All the companies are duly appearing in the Portal of Ministry of Corporate Affairs and shares have been allotted to all these applicant companies and there are no further financial transaction with these companies and for this reason the assessee company did not have change of address of registered offices of these companies in its record. All the companies are well established and have duly disclosed the investment of shares in assessee-company, in their financial statement. In support of his contention, the assessee relied upon the decision of Hon'ble Supreme Court in the case of Commissioner of Income Tax Vs. M/s. Lovely Export Pvt. Ltd. in CC 11993/2007. Rejecting the various explanations given by the assessee, the A.O. make addition of Rs.5 crores to the total income of the assessee.

2.2. The A.O. confronted the assessee to explain as to why in view of the action of DGCEI on the company as on 30.05.2006 and 20.06.2006, wherein discrepancies in stock were noticed, the books of accounts, which have not been produced before him should not be rejected and why the book results declared may not be rejected as unreliable and thus rejected under section 145A of the I.T. Act, 1961. The assessee replied that the Central Excise Authorities have seized the books of account and despite it's best efforts, they are unable to obtain the same. However, the A.O. rejected the explanation of assessee as not tenable and observed that the assessee failed to reconcile the unaccounted stock valuing Rs.1,21,39,530/- at the time of search conducted by the Central Excise Department as well as during the course of assessment proceedings. He, therefore, made addition of the same to the total income of the assessee.

2.3. The A.O. further noted that the assessee vide order sheet entry dated 24.12.2010 was asked as to why the books of account which have not been produced before him may not be rejected and to show cause as to why the book

results declared may not be rejected and considered as unreliable and thus rejected u/s 145A of the I.T. Act, 1961. In response to above, the assessee failed to produce the complete set of books of account. Hence, the A.O. held that the results declared by the assessee on the basis of incomplete books, cannot be accepted and, therefore, he rejected the book results of the assessee under section 145A of the I.T. Act, 1961. He noted that the assessee has shown gross profit of Rs.4,14,758/-. In order to make a reasonable estimate of assessee's income, the A.O. adopted the G.P. rate of 19.70% as per his best judgment as adopted in one of the case of assessee group i.e. Kurele Fragrance Pvt. Ltd. in order to arrive at the estimated profit of the company during the year. The same was taken from average G.P. Rate for A.Y. 2007-08 and A.Y. 2006-07 in the case of M/s. Kay Pan Product Pvt. Ltd. as comparable case. The A.O. accordingly made addition of Rs.1,23,78,692/- to the total income of the assessee.

2.4. The A.O. further noted that the assessee has debited a sum of Rs.1,21,411/- under the head "Loss" on

sale of fixed assets. Since the capital loss is not allowed under section 37 of the I.T. Act, 1961 the A.O. disallowed the same and added to the income of the assessee. Accordingly, the A.O. determined the total income of the assessee at Rs.7,35,67,143/-.

2.5. In appeal, the Ld. CIT(A) dismissed the appeal filed by the assessee. So far as the addition of Rs.5 crores on account of share capital is concerned, the Ld. CIT(A) upheld the same by observing as under :

5.7 **Decision:-**

4. I have considered the assessment order, written submission, the report of the assessing officer on the production of director and rejoinder of Ld. AR.

During the assessment proceedings, the appellant has filed some documentary evidences in support of genuineness of share application/capital transaction allegedly received from three Private Limited Companies. To verify the genuineness of these documents, Ld. Assessing Officer issued summons u/s 131 to all three share applicant/share holder companies. These summons remained uncomplied either the summons came back unserved or no details were filed in response to such summons.

Subsequently, Ld. Assessing officer asked the appellant to produce the directors of share applicant companies. The appellant failed to produce the directors during the assessment



M/s. Kurele Pan Products (P) Ltd.  
(A.Y. 2008-09)

Appeal no. 837/10-11/429

proceedings. During the appellate proceedings, Ld. AR himself claimed specifically that the appellant wants to produce the directors of the share applicant. However when the Ld. Assessing officer has asked the appellant to produce these directors of share applicant/shareholder company, they failed to produce the same. Ld. AR argued that these investors has lost interest in the appellant companies as the business is closed, therefore, the directors of these share applicant company could not be produced. I do not agree with this arguments. In fact, if the business of the appellant company is closed, the share applicant could have become cautious for getting their share application money back as shares are not allotted and pending for over 6 years. These shares applicant should have appeared before the assessing officer to strengthen their claim of investment in share application money. No doing so, it transpires that they do not have stale.

Under these circumstances, a doubt arises on the genuineness of these transactions. Documentary evidence filed in support of genuineness of share application transaction is not enough. In present case, during the assessment proceedings there was no compliance on the requirement of enquiry made u/s 131 and subsequently, the appellant failed to produce director during the assessment proceedings. During appellate proceeding, the appellant has itself come forwarded to produce the directors of the share applicant companies and failed to produce them.

Therefore, the judicial pronouncement relied by Ld. AR in this regard does not apply to the facts of the case, where the appellant itself has requested to produce the directors of share applicant company to prove the transaction during the appellate proceedings and has failed to produce.

In fact under the present facts and circumstances of the case, judgement of hon'able Jurisdictional High Court of Delhi in the case of NR Portfolio (P) Ltd., ITA no 134/2012, dated 21.12.2012 appears to be squarely applicable where it has been held that the share holder/applicant of a private Limited company is within arms length of that company as transaction is privately arranged. The findings of the above cited judgement is reproduced as under:-

"8. This court is conscious of a view taken in some of the previous decisions that the assessee cannot be faulted if the share applicants do not respond to summons, and that the state or revenue authorities have the wherewithal to compel anyone to attend legal proceedings. However, that is merely one aspect. An assessee's duty to establish that the amounts which the AO proposes to add back, under Section 68 are properly sourced, does not cease by merely furnishing the names, addresses and PAN particulars, or relying on entries in a Registrar of Companies website. One must remember that in all such cases, more often than not, the company is a private one, and share applicants are



M/s. Kurele Pan Products (P) Ltd.  
(A.Y. 2008-09)

Appeal no. 837/10-11/429

*known to it, since they are issued on private placement, or even request basis. If the assessee has access to the share applicant's PAN particulars, or bank account statement, surely its relationship is closer than arm's length. Its request to such concerns to participate in income tax proceedings, would, viewed from a pragmatic perspective, be quite strong, because the next possible step for the tax administrators could well be re-opening of such investor's proceedings. That apart, the concept of "shifting onus" does not mean that once certain facts are provided, the assessee's duties are over. If on verification, or during proceedings, the AO cannot contact the share applicants, or that the information becomes unverifiable.*

*ITA 134/ 2012 Page 12 further doubts in the pursuit of such details, the onus shifts back to the assessee. At that stage, if it falters, the consequence may well be an addition under Section 68. This court recollects the robustness with which the issue was dealt with, in A. Govindarajulu Mudaliar v CIT, (1958) 34 ITR 807, in the following terms :-*

*"Now the contention of the appellant is that assuming that he had failed to establish the case put forward by him, it does not follow as a matter of law that the amounts in question were income received or accrued during the previous year, that it was the duty of the Department to adduce evidence to show from what source the income was derived and why it should be treated as concealed income. In the absence of such evidence, it is argued, the finding is erroneous. We are unable to agree. Whether a receipt is to be treated as income or not, must depend very largely on the facts and circumstances of each case. In the present case the receipts are shown in the account books of a firm of which the appellant and Govindaswamy Mudaliar were partners. When he was called upon to give explanation he put forward two explanations, one being a gift of Rs. 80,000/- and the other being receipt of Rs. 42,000/- from business of which he claimed to be the real owner. When both these explanations were rejected, as they have been it was clearly upon to the Income-tax Officer to hold that the income must be concealed income. There is ample authority for the position that where an assessee fails to prove satisfactorily the source and nature of certain amount of cash received during the accounting year, the Income-tax Officer is entitled to draw the inference that the receipt are of an assessable nature. The conclusion to which the Appellate Tribunal came appears to us to be amply warranted by the facts of the case. There is no ground for interfering with that finding, and these appeals are accordingly dismissed with costs."*

*ITA 134/ 2012 Page 13*

9. *Having regard to the totality of facts and circumstances, particularly the remand report, which was not considered by the Commissioner (Appeals) and the ITAT in its*



M/s. Kurele Pan Products (P) Ltd.  
(A.Y. 2008-09)

Appeal no. 837/10-11/429

*proper perspective, this Court is of the opinion that the question of law requires to be answered in favour of the revenue, and against the assessee. The appeal is therefore, allowed, but without any order as to costs."*

In present case, the Ld. Assessing officer during the assessment proceeding issued notice u/s 131 to verify the authenticity of documents filed by the assessee in support to substantiate the credit entries u/s 68. The summons remained uncomplied. Therefore, onus shifted back to the appellant to prove the genuineness of these alleged cash credits. The appellant during the assessment stage failed to discharge the onus. During the appellate proceedings, the Ld.AR claimed to produce the director. The matter was referred to the assessing officer. During the remand proceedings, the Ld. Assessing officer has issued summons u/s 131 to these share applicant which remained uncomplied during the remand proceedings and the appellant has shown its inability to produce such share applicant specifically under the circumstances when the appellant itself has requested to give an opportunity to produce such directors. Therefore, the appellant could not produce the directors of the share applicant either during assessment proceeding or during the remand proceeding.

Considering the entire facts and circumstances of the case, in my view the onus has shifted to the appellant when these share applicant did not respond to summons u/s 131 issued by the Ld. AO and the appellant has not discharged its onus to produce the director in person for further enquiry.

One of the argument of Ld. AR is that there is no seized documents which supports the addition u/s 68. Therefore, no addition can be made u/s 153 in absence of incriminating documents. Ld.AR has relied upon various judicial pronouncements. I have considered these arguments. In appellant's case, there are seized material on the basis of which other addition has been made such addition will be adjudicated in subsequent paragraph. Under this circumstances, the decision of hon'able Jurisdictional High Court of Delhi in the case of Anil Kumar Bhatia in ITA 1626, 1632,1998,2006,2019 and 2020 of 2010 dated 07.08.2012 that the jurisdiction of the AO u/s 153A is squarely applicable where it has been held that the assessing officer has power to assess total income u/s 153A and make all additions. In the said judgement of hon'able High Court has not given opinion where there is no incriminating documents. In present case, there is incriminating document on the basis of which addition has been made. Under this circumstances, the assessing officer has to make all addition including addition u/s 68 of I.T. Act. Accordingly, jurisdictional ground/argument is dismissed.

Therefore, I confirm the addition made u/s 68 of I. T. Act for Rs. 5crore, received by the appellant on share application money/share capital. Accordingly, these grounds of appeal are dismissed. //



6. So far as addition of Rs.1,21,39,500/- on account of unexplained stock is concerned, the Ld. CIT(A) upheld the same by observing as under :

*“6.3 Decision :-*

*I have considered the assessment order, written submission and reply of the assessing officer and rejoinder filed by Ld. AR. The addition has been made on the basis of seized paper containing excess stock found by the DGCE1 during their search. Main arguments of Ld. AR is that the issue has not been adjudicated by the Excise Department till date. Therefore, no adverse view should be taken. Further, the Ld. AR has filed reply explaining the difference. The main explanation for the excess stock found by the Excise Authority is that the inventory of stock was taken on estimation basis. As the stock register produced the remand proceeding is same stock register which was produced before the excise*

*authority. The main argument of the Ld. AR that the stock was taken on estimation basis has not yet been accepted by the Excise Department. The issue whether estimation was done while taking inventory of stock has to be decided by The Excise Department. Therefore, as on date there remains unaccounted stock. Accordingly, the addition on account of unaccounted stock is hereby confirmed. This ground of appeal is dismissed.”*

2.7. So far as the addition of Rs.1,23,78,692/- made by the A.O. by rejecting the book results is concerned, the Ld. CIT(A) upheld the same by observing as under :

“7.3. Decision :-

*I have considered the assessment order, written submission, the report of the assessing officer and rejoinder filed by Ld. AR. Sole basis of rejection of books of accounts u/s 145A is incomplete books of accounts and applying gross profit of some other similar entity. During the*

*appellate proceedings, Ld.AR explained that complete sets of books of accounts are now available as the same was released by Central Excise Department. These books of accounts were produced before the assessing officer and he was directed to examine the books of accounts. Though, the assessing officer has not commented adversely on the entries in the books of accounts. However facts remain that there was unaccounted stock as confirmed in earlier paragraph in para 6.3. Therefore, even audited books of accounts are not reliable. Therefore, I confirm the rejection of books of accounts and also action of the assessing officer to take comparative G.P rate of similar concern. Therefore, the addition on account of enhanced gross profit is hereby confirmed. This ground of appeal is hereby dismissed*

3. Aggrieved with such order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds :

- “1. *BECAUSE the ld. CIT(A) has erred in law and on facts in holding that validity of search and its procedures cannot be a matter of adjudication under section 250 of the Act.*
2. *BECAUSE on a due consideration of law, facts and circumstances of the case, particularly when in spite of search under section 132, no incriminating material requiring adverse inference was found; the Id. CIT(A) should have held that none of the addition made are sustainable in the present case.*
3. *BECAUSE the ld. CIT(A) has erred in law and on facts in confirming the addition of Rs.5,00,00,000 made under section 68 of the Act on account of share capital received as unexplained cash credit.*
4. *BECAUSE the learned CIT(A) has erred in law and on facts in sustaining the addition of Rs.1,21,39,530 on account of stock.*
5. *BECAUSE the learned CIT(A) has erred in law and on facts in confirming the action of rejection of*

*books of account mainly for the reason that he confirmed the addition on account of stock.*

6. *BECAUSE the learned CIT(A) has erred in law and on facts in sustaining the addition of Rs.1,23,78,692 on account of Gross Profit.*

7. *BECAUSE the order appealed against is contrary to the facts, law and principles of natural justice.”*

3.1. The Learned Counsel for the Assessee submitted that it is a case of non-application of mind by the A.O. which is the edifice of the addition. Referring to page-22 of the order of the Ld. CIT(A), he submitted that the value wise excess/short fall as per remand report as per para-9 page-22 of the Ld. CIT(A) order is as under :

9. *The value wise excess/short fall as per remand report is as under :-*

- *Shortfall of Tobacco 268 Kg. at the rate of Rs.40/- per kg.=Rs.10,720/-.*

- *Excess of 437 Kg. of Illachi at the rate of Rs.225/- per Kg.=Rs.98,325/-.*
- *Shortfall of 43 kg. of Katha @ of Rs.400/- per Kg. =Rs.17,200/-.*
- *Excess of 2592 Kg. of Packing Roll @ of Rs.150/- per Kg. - Rs.3,88,800/-.*
- *Excess of 205 Kg. of Perfume @ Rs.2000/- per kg.= Rs.4,10,000/-.*

*Accordingly, the short fall (physical stock more than stock as per books of account) is of Rs.27,920/-. However this is ignorable in view of heavy stock and further in real production there would have been normal shortage/excess while accounting in and out quantities.”*

3.2. He submitted that even after observing that the short fall is only Rs.27,920/- and this figure also is very nominal considering the heavy stock and in real production there would have been normal shortage/excess, the Ld.

CIT(A) upheld the huge addition made by the A.O. which is uncalled for.

3.3. Similarly, the rejection of books of account is also uncalled for since the books were seized by the central Excise Department. Despite its best efforts these could not be obtained from the Excise Department. However, the A.O. could have obtained the same. He accordingly submitted that that he has no objection if the matter is restored to the file of the A.O. with a direction give one more opportunity to the assessee to substantiate its case.

4. The Ld. D.R. on the other hand strongly objected to the arguments advanced by the Learned Counsel for the Assessee. He submitted that while he has no objection for setting aside the issue regarding addition on account of unaccounted stock and addition on account of rejection of book profit under section 145A of the I.T. Act, 1961, however, the addition made by the A.O. and sustained by the Ld. CIT(A) to the tune of Rs.5 crores on account of share capital from the company should be sustained. He

submitted that assessee was given enough time and sufficient opportunity by the A.O. as well as the Ld. CIT(A). The assessee has neither proved the identity nor the creditworthiness of the loan creditors nor genuineness of the transaction. Therefore, in view of the decision of Hon'ble Supreme Court in the case of NRA Iron and Steel Pvt. Ltd., reported in (2019) 103 taxmann.com 48 (SC) the addition to the tune of Rs.5 crores should be sustained and the other two issues may be set aside to the A.O.

5. The Learned Counsel for the Assessee in his rejoinder submitted that once books of account are rejected, there cannot be other additions i.e., there cannot be two separate additions. He submitted that no incriminating material was found during the course of search. The assessee has produced voluminous documents which were simply brushed aside by the lower authorities. The Learned Counsel for the Assessee drew the attention of the Bench to the voluminous paper book and submitted that various details field before the A.O. and the Ld. CIT(A) were completely ignored. The assessee has filed the necessary

documents such as copy of share application form, bank account statements of the relevant period, balance-sheet and P & L A/c, copy of acknowledgment of e-return of the company and confirmation of each share applicant company in the matter of share application money of Rs.5 crores. The status report of these applicant companies downloaded from the portal of Ministry of Corporate Affairs was also filed. The amounts were received by cheque through the normal banking channels and, therefore, the lower authorities should not have ignored all these vital documents before coming to the conclusion. He submitted that the assessee has only asked for setting aside the issue with a direction to the A.O. to go through the relevant details and decide the issue afresh.

6. We have considered the rival arguments made by both the sides, perused the orders of the A.O. and the Ld. CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the A.O. in the instant case completed the assessment under sections 153A/143(3) of the I.T. Act, 1961

determining total income of assessee at Rs.7,35,67,143/- as against the loss declared by the assessee at Rs.10,72,490/- wherein he made the three following major additions which is in dispute in the instant appeal.

- (a) Unexplained share application money/share capital of Rs.5 crores.
- (b) Addition on account of unexplained stock Rs.1,21,39,530/-.
- (c) Addition on account of rejection of book profit under section 145A of the I.T. Act, 1961 at Rs.1,23,78,692/-.

6.1. We find the Ld. CIT(A) upheld the above three additions, the reasons of which, have already been reproduced in the preceding paragraph. It is the submission of the Learned Counsel for the Assessee that the books of account were seized by the Central Excise Authorities and despite its best efforts they could not obtain the books of account from the custody of the Central Excise Department and the A.O. also has not taken any steps to obtain directly

from them. Therefore, given an opportunity, the assessee is in a position to substantiate with evidence to the satisfaction of the A.O. regarding the reconciliation of the closing stock and the various other discrepancies on account of G.P. rate. It is also his submission that the various documentary evidences filed to explain the share capital of Rs.5 crores from the above three companies were completely brushed aside by the lower authorities and, therefore, the assessee should be given an opportunity to substantiate its case.

6.2. We find some force in the above arguments of the Learned Counsel for the Assessee. It is an admitted fact that the books of account were seized by the Central Excise Authorities and this fact was also brought to the notice of the A.O. The relevant observation of the A.O. and reply of the assessee reads as under :

*“Keeping in view the above, the assessee vide order sheet entry dated 24.12.2010 was confronted that in view of the action of DGCEI on*

*the company as on 30.5.2006 and 20.06.2006, wherein discrepancies in stock was noticed, the books of account which have not been produced before the undersigned may not be rejected and to show cause as to why the book results declared may not be rejected and considered as unreliable and thus rejected u/s 145A . The assessee was required to file submission by 25.12.2010. The assessee vide its reply dated 25.12.2010 has submitted that there was search and seizure operation by the Central Excise Authorities on 30.05.2006 and on 20.06.2007 in which these authorities have been seized various books and records. Despite of our request, we have not been provided the copies thereof. For this reason we are not in a position to produce all these records to meet your requirement. The failure is not voluntary of because of our own act. The failure is cause by the Act of Central Excise Authorities which is beyond our control and we should not be made to*

*suffer on this account. We request for justice in the circumstances. In the action by DGCEI on 20.06.2007. They have taken the physical stock by estimation. Further there are other irregularities in the stock/inventory taken. The show cause notice has not yet been issued. All the facts relating to action dated 20.06.2007 are yet to be adjudicated."*

6.3. Similarly, a perusal of the orders of the A.O. and the Ld. CIT(A) shows that various details/documentary evidences filed by the assessee have not been considered by the lower authorities at all which go to the root of the matter for deciding the issue of share application money. Therefore, considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore all the issues to the file of A.O. with a direction to grant an opportunity to the assessee to substantiate its case and decide the issues as per fact and Law and after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to appear

before the A.O. and cooperate in early completion of the assessment proceedings without seeking any adjournment under any pretext, failing which, the A.O. is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

7. In the result, ITA.No.5405/Del./2014 of the Assessee is allowed for statistical purposes.

ITA.No.5597/Del./2014 – A.Y. 2008-09

M/s. Kurele Fragrances (P) Ltd.,

8. The grounds raised by the assessee are as under :

“1. *BECAUSE the Id. CIT(A) has erred in law and on facts in holding that validity of search and its procedures cannot be a matter of adjudication under section 250 of the Act.*

2. *BECAUSE on a due consideration of law, facts and circumstances of the case, particularly when in spite of search under section 132, no incriminating*

*material requiring adverse inference was found; the Id. CIT(A) should have held that none of the addition made are sustainable in the present case.*

3. *BECAUSE the Id. CIT(A) has erred in law and on facts in confirming the addition of Rs.50,00,000 made under section 68 of the Act on account of share capital received as unexplained cash credit.*
4. *BECAUSE the learned CIT(A) has erred in law and on facts in sustaining the addition of Rs.20,67,154 on account of stock.*
5. *BECAUSE the learned CIT(A) has erred in law and on facts in confirming the action of rejection of books of account mainly for the reason that he confirmed the addition on account of stock.*
6. *BECAUSE the learned CIT(A) has erred in law and on facts in sustaining the addition of Rs.16,44,927 on account of Gross Profit.*

7. *BECAUSE the order appealed against is contrary to the facts, law and principles of natural justice.”*

9. After hearing both the sides, we find the grounds raised by the assessee in the above appeal are identical to the grounds raised by the assessee in ITA.No.5405/Del./2014. We have already decided the issues and the grounds raised by the assessee have been allowed for statistical purposes by restoring all the issues to the file of A.O. Following similar reasonings, we restore all the three issues to the file of A.O. with a direction to grant an opportunity to the assessee to substantiate it's case and decide the issue as per fact and law and after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to appear before the A.O. and cooperate in early completion of the assessment proceedings without seeking any adjournment under any pretext, failing which, the A.O. is at liberty to pass appropriate order as per law. The grounds raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, ITA.No.5597/Del./2014 of the assessee is allowed for statistical purposes.

To sum-up, both the appeals of the Assessee are allowed for statistical purposes.

Order pronounced in the open court on 22.12.2021.

Sd/-  
[Ms. SUCHITRA KAMBLE]  
JUDICIAL MEMBER

Sd/-  
[R.K.PANDA]  
ACCOUNTANT MEMBER

Delhi; Dated 22<sup>nd</sup> December, 2021.

VBP/-

Copy to

1.	The assessee
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'C' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :  
Delhi.