

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

**Before Sh. A. D. Jain, Vice-President**

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

**ITA No. 1342/Del/2018 : Asstt. Year : 2014-15**

Aashish Raj, C/o M.K. Bhatt & Co. 302, E-10-12, Jawahar Park, Laxmi Nagar, New Delhi-110092	Vs	Income Tax Officer, Ward-1(5), Ghaziabad
(APPELLANT)		(RESPONDENT)
<b>PAN No. AUHPR3159E</b>		

**Assessee by : None**

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

**Date of Hearing: 07.12.2021**

**Date of Pronouncement: 08.02.2022**

**ORDER**

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

The present appeal has been filed by the assessee against the order of Id. CIT(A), Ghaziabad dated 30.11.2017.

2. Following grounds have been raised by the assessee:

*"1. The Learned CIT (Appeals) imprecisely confirmed the two (2) additions made by the Learned Assessing Officer, of Rs. 5,00,000/- and Rs. 3,94,982/- in mechanical manner, without even considering the submission made during the course of appeal by the appellant, thus the order of appeal so passed, is totally bad in law & wrong on facts. The CIT (Appeals) has only gone by surmises, conjectures and guess work in drawing inference and recording conclusion. In the absence of any cogent material to support findings, the same being based on conjuncture & surmises can't be upheld.*

*2. The learned CIT (Appeals) has erred in law and on fact in confirming the addition of Rs. 3,94,982/- without understanding the fact of the case and related*

*documents submitted during the course of the appeal on account of addition in the capital account of the partnership firm M/s Deeash Creations under section 68 of the Act in the name of the appellant. In fact the Car (Eeco- Commercial Registration) was purchased by the appellant in his own name, duly financed by the TATA Capital Financial Services Limited for a sum of Rs. 3,19,000/-. Since the Car was being used in carrying the business of the partnership firm M/s Deeash Creations, so in the books of the partnership the same was introduced by passing the Journal entry, by crediting the capital account of the appellant.*

*3. The learned CIT (Appeals) has erred in law and on fact in confirming the addition of Rs.5,00,000/- without considering the vital facts that the appellant is an assessee, filing his return of income since long, and submitted the statement of affairs (SOA) and Cash Flow Statement, which shows the source of the deposit of cash in the bank."*

3. The assessee has also raised the following additional grounds of appeal:

*"1. The learned CIT (Appeals) has erred in law and on fact in confirming the addition of Rs. 3,94,982/- under section 68 of the Act, without appreciating the fact that no credit for the amount was found in the books of the appellant during the previous year relevant to the assessment year 2014-15. The amount found to be credited in the books of the partnership firm M/s Deeash Creations, cannot be added under section 68 in the name of the appellant as the partnership firm is a separate assessable entity under the act in which books the credit is found."*

4. During the assessment proceedings, the assessee was asked to explain the source of cash deposits of Rs. 3 lacs and Rs. 2 lacs made in the Axis Bank, Nehru Nagar, Ghaziabad and Bank of India, G.T. Road, Ghaziabad respectively. He has not disclosed the account in Bank of India, G.T. Road, Ghaziabad in his return and has denied to have any such account in his reply filed on 19.08.2016. Finally, the assessee filed the copies of

these bank account, however no explanation/evidence with regard to source of these cash deposits into the accounts was furnished. In the absence of any plausible explanation for the source and these cash deposits of Rs. 5 lacs are added to the income of assessee u/s 69 of I.T. Act.

5. The assessee has challenged the addition of Rs.5,00,000/- made on account of cash deposited in Axis Bank Nehru Nagar, Ghaziabad before the Id. CIT(A) who confirmed the addition holding that neither during appellate proceedings nor during assessment proceedings assessee could substantiate the source of cash deposits. With regard to this issue, we direct the Id. CIT (A) to consider the nature of deposit and examine whether they are in the nature of business receipt or otherwise and bring the amount to tax accordingly. The assessee shall provide all the required details before the Id. CIT (A) to substantiate to his claim without seeking unnecessarily adjournments.

6. With regard to the addition of Rs.3,94,984/-, the assessee raised additional grounds before us which have been admitted owing to the reason that the grounds are entrenched to the root cause of addition made. Since, the First Appellate Authority has had not the opportunity of examining the issue, the matter being remitted back to the file of the Id. CIT (A) to adjudicate *denovo*.

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

Order Pronounced in the Open Court on 08/02/2022.

Sd/-

**(A. D. Jain)**  
**Vice President**

**Dated: 08/02/2022**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

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

**ASSISTANT REGISTRAR**