

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

**BEFORE,
SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.1108/Del/2018
(ASSESSMENT YEAR 2012-13)**

**ITA No.1109/Del/2018
(ASSESSMENT YEAR 2013-14)**

The Panipat Central Co-op. Bank Ltd., Gohana Road, Sugar Mill Colony, Panipat PAN-AAFT 6501H (Appellant)	Vs.	Asst. CIT, Circle, Panipat (Respondent)
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Appellant By	Ms. Apurva Bhardwaj, CA
Respondent by	Sh. Arvind Kumar Bansal, Sr. DR

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) Both appeals i.e., ITA No.1108/Del/2018 and ITA No.1109/Del/2018 have been filed by Assessee against the orders of Learned Commissioner of Income Tax (Appeals), Karnal [“Ld. CIT(A)”, for short], dated 06.12.2017 for Assessment Year 2012-13 and 04.12.2017 for Assessment Year 2013-14.

(B) For the sake of convenience, both these appeals are being disposed off through this consolidated order. In Appeal vide ITA No.1108/Del/2018 for Assessment Year 2012-13, the disputes pertain to addition of Rs.40,30,322/- (u/s 68 of the Income Tax Act); Rs.12,26,726/- (on account of interest income) and Rs.13,07,286/- (u/s 43B of Income Tax Act). These additions were made by the Assessing Officer vide assessment order dated 18.03.2015 u/s 143(3) of the Income Tax Act, 1961; and confirmed by the Ld. Commissioner of Income Tax (Appeals) [“CIT” for short], vide her impugned appellate order dated 06.12.2017.

(B.1) In Assessment Year 2013-14, the dispute relates to the addition of Rs.24,16,100/- (u/s 68 of the Income Tax Act) by the Assessing Officer vide assessment order dated 16.02.2016 passed u/s 143(3) of Income Tax Act; which was confirmed by the Ld. CIT(A) vide her impugned appellate order dated 04.12.2017.

(B.2) In the course of appellate proceedings, separate paper books were filed from the assessee's side for Assessment Years 2012-13 and 2013-14; containing the following particulars:

ITA No. 1108/Del/2018 for Assessment Years 2012-13

S. No.	Particulars
1	Written Submissions dated 22-11-2017 submitted before Ld. CIT(A) (with relevant Annexures)
2	Written Submissions dated 26-10-2016 submitted before Ld. CIT(A) (with relevant Annexures)
3	Application for Additional Evidences under Rule 46A dated 26-10-2016 (with relevant annexures)
4	Written Submissions dated 10-08-2016 submitted before Ld. CIT(A) (with relevant annexures)
5	Application for Additional Evidences under Rule 46A dated 10-08-2016 (with annexures)
6	Questionnaire dated 19-02-2015 issued by the Ld. AO
7	Questionnaire dated 23-01-2015 issued by the Ld. AO
8	Questionnaire dated 13-10-2014 issued by the Ld. AO
9	Letter dated 23-02-2015 submitted before the Ld. AO (with relevant annexures)
10	Financial Statements for FY 2011-12

ITA No. 1109/Del/2018 for Assessment Years 2013-14

S. No.	Particulars
1	Written Submissions dated 22-11-2017 submitted before Ld. CIT(A) (with relevant Annexures)
2	Written Submissions dated 23-01-2017 submitted before Ld. CIT(A) (with relevant Annexures)
3	Application for Additional Evidences under Rule 46A dated 23-01-2017 (with relevant annexures)
4	Letter dated 08-02-2016 submitted before the Ld. AO (with relevant annexures)
5	Letter dated 08-01-2016 submitted before the Ld. AO (with relevant annexures)

A common synopsis was also filed from the assessee's side for both these appeals.

(B.3) At the time of hearing before us, in respect of Assessment Year 2012-13 vide ITA No.1108/Del/2018, the Ld. Counsel for the assessee made an oral submissions in consonance with the aforesaid synopsis. In respect of the addition of Rs.40,30,322/- made u/s 68 of Income Tax Act, the Ld. Counsel for the assessee contended that provisions of Section 68 were not

applicable. She further submitted that genuineness of the expenses were not doubted by the Assessing Officer or by the Ld. CIT(A). She also submitted that the amounts were not provisions for an unknown liability. She also drew our attention to the fact that the Assessing Officer had failed to issue any show cause notice with regard to this addition, which deprived the assessee an opportunity for being heard. She also brought it to our attention that the Ld. CIT(A) did not give due weightage to this submission, although, it was brought to her knowledge. In respect of the aforesaid addition of Rs.12,26,729/- on account of interest income, the Ld. Counsel for the assessee contended that the assessee's transactions were revenue neutral and no addition was warranted. She also submitted that the adequate opportunity of being heard was not allowed to be assessee, as show cause notice was issued only in respect of Rs.9,25,331/- but the eventual addition was of a higher amount of Rs.12,26,729/-. She also brought it to our attention that no addition on this account was made by Revenue in the next year, i.e. in the year 2013-14. In respect of the addition of the aforesaid amount of Rs.13,07,286/- made u/s 43B of IT Act, the Ld. Counsel

for assessee submitted that the assessee should have been allowed the deduction in respect of expenses paid before the filing of return of income instead of restricting the allowable expenditure to payments made up to 31.03.2012. In respect of aforesaid addition of Rs.24,16,100/- for Assessment Year 2013-14, the submissions of the Ld. Counsel for the assessee were similar to submissions made in connection with the aforesaid addition of Rs.40,30,322/- in Assessment Year 2012-13. The Ld. Counsel for assessee, in connection of these two appeals, also placed reliance on the following precedents;

- (i) CIT vs Bilahari Investment (P.) Ltd. [2008] 299 ITR 1 (Supreme Court)
- (ii) Tin Box Co. vs. CIT [2001] 249 ITR 216 9SC)
- (iii) Ester Industries Ltd. vs CIT [2009] 316 ITR 260 (Delhi High Court)
- (iv) CIT vs. Triveni Engg. & Industries Ltd. [2011] 336 ITR 374 (Delhi High Court)
- (v) CIT vs Pancham Dass Jain [2006] 205 CTR 444 (Allahabad High Court)
- (vi) Anna Maria Travels & Tours Pvt. Ltd. vs. DCIT, ITA 2165/Del/2003 (Delhi -Tribunal) [(2005) 95 ITJ Delhi 71].

(C) The Ld. Departmental Representative (“DR” for short) relied on the orders of the Assessing Officer and the Ld. CIT(A).

(C.1) After some deliberations at the time of hearing before us, representatives of both sides submitted before us, that all the issues in dispute in the two appeals before us should be set aside to the file of the Assessing Officer for fresh order in accordance with law.

(D) We have heard both sides. We have perused the materials on record. We find that the Ld. CIT(A) has passed the impugned appellate orders without giving due consideration to the submissions made by the assessee. We also find that the Ld. CIT(A) has passed cryptic and non-speaking orders in respect of issues in dispute. We also find that the Assessing Officer has passed the orders other without giving adequate opportunity to the assessee, or without giving full consideration to the submissions made by the assessee. In view of the foregoing, and as both sides had agreed to this at the time of hearing before us, we set aside the impugned appellate orders of the Ld. CIT(A), dated 06.12.2017 (for Assessment Year 2012-13) and 04.12.2017 (for Assessment Year 2013-14); and

we restore all the issues in dispute in the two appeals before us, to the file of the Assessing Officer with the direction to pass fresh orders in accordance with law, after providing reasonable opportunities to the assessee. By way of abundant caution, we clarify that the fresh orders to be passed by the Assessing Officer, are to be restricted to the disputed additions in these two appeals referred to in foregoing paragraphs (B) and (B.1) of this order.

(E) In the result, the assessee's appeals are partly allowed for statistical purposes.

Order pronounced on 19.04.2022

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Dated: 19.04.2022

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Copy forwarded to:

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

Sd/-

**(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI