

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “SMC”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 7593/DEL/2019**  
**[Assessment Year: 2011-12]**

Arjun Matta, B4A/37, Rana Pratap Bagh, North Delhi, Delhi.  PAN- AMFPM8079C	<u>Vs</u>	Income-tax Officer, Ward-36(5), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	<b>Sh. Gurjeet Singh, CA</b>	
<b>Respondent by</b>	<b>Sh. Om Prakash, Sr. DR</b>	
<b>Date of hearing</b>	<b>11.05.2022</b>	
<b>Date of pronouncement</b>	<b>11.05.2022</b>	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-12, New Delhi, dated 27.06.2019, pertaining to the assessment year 2011-12. The assessee has raised following grounds of appeal:

- “1. *Because the action for initiation, continuation and conclusion of reassessment proceedings u/s 148 is being challenged on facts and law.*
  
2. *Because the action is under challenge on facts & law, for initiating & concluding the reassessment proceeding u/s 144/147 of the Act at an amount of Rs. 10,45,255/- without noticing the distinction of the words, reasons to*

*suspect distinguishable from reasons to belief pursuant to reasons recorded.*

3. *Because the action for initiation of re-assessment proceedings is unreasonable since while recording reasons, there is non-application of mind much less independent application of mind and merely relying upon information received by AO, further reasons recorded are vague, lacking tangible material/reasonable cause and justification.*

4. *Because the action is under challenge on facts & law, for making addition u/s 68 amounting to Rs. 2,20,000/- relating to cash deposit in Sarvodya Co-op Bank overlooking the assessee's submission that assessee has none bank account in any branch of Sarvodya Co-op Bank.*

5. *Because the action is under challenge on facts & law, for making addition of Rs. 4,76,595/- on estimation basis (0.5% of total turnover of transaction with multi commodity exchange Rs. 9,53,19,067/-) overlooking the documents & submission of assessee.*

6. *Because the action is under challenge on facts & law, for making addition of Rs. 1,73,100/- u/s 68 on account of sale of shares of Ashutosh Paper Mills Ltd. as unaccounted money of the assessee overlooking that assessee has incurred loss in trading of said shares.*

7. *For any consequential relief and/or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.*

2. Facts, in brief, are that case of the assessee was reopened u/s 147 of the Income-tax Act, 1961, hereinafter referred to as the "Act", on the basis that the assessee had traded in the script/ share of M/s Ashutosh Paper Mills Ltd. amounting to Rs. 1,73,100/-. The Assessing Officer noticed that M/s Ashutosh Paper Mills Ltd. was a penny stock listed on BSE and this company was involved in facilitating introduction of unaccounted income of members. Therefore, treating

the transaction as sham, the Assessing Officer reopened the case of the assessee by issuing notice u/s 148 of the Act. In response to the notice no return of income was filed. The Assessing Officer also show caused to the assessee for proceedings ex parte, but no one attended the proceedings. Therefore, the Assessing officer proceeded to make additions on account of cash deposited in the Sarvodaya Co-operative Bank amounting to Rs. 2,20,000/-; margin money of Rs. 4,76,595/- u/s 68 of the Act and the transactions relating to M/s Ashutosh Paper Mills Ltd. of Rs. 1,73,100/-. Hence the Assessing Officer assessed the income of the assessee at Rs. 10,45,255/- against the returned income at Rs. 1,75,560/-. Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals), who after considering the submissions sustained the finding of Assessing Officer and dismissed the appeal. Aggrieved against this, the assessee is in appeal before this Tribunal.

3. Apropos ground nos. 1 to 6, learned counsel for the assessee vehemently argued that there is complete non-application of mind by the Assessing Officer for reopening of the assessment. He submitted that the assessment cannot be reopened purely on the basis of suspicion. He contended that the Assessing Officer made three additions at the back of the assessee. Firstly, on account of cash deposit in the Sarvodaya Co-operative Bank amounting to Rs. 2,20,000/-, he contended that no such bank account was held by the assessee. He submitted that the banker has

issued a certificate in this regard. Secondly, an addition of Rs. 4,76,595/- was purely made on estimation basis, overlooking the documents and submissions of the assessee. Thirdly, an addition of Rs. 1,73,100/- was made u/s 68 of the Act on account of sale of shares of M/s Ashutosh Paper Mills Ltd., as unsecured money of the assessee, overlooking that the assessee had incurred loss in trading of such shares.

4. Per contra, learned DR opposed the submissions and supported the orders of the authorities below.

5. I have heard rival submissions and gone through the entire material available on record. I find that the impugned assessment order has been passed ex parte to the assessee u/s 144 read with section 147 of the Act vide order dated 18.12.2018. It is the say of the assessee that he was not holding any bank account in Sarvodaya Co-operative Bank Ltd., where the Assessing Officer has alleged having deposited cash amounting to Rs. 2,20,000/-. The other addition of Rs. 4,76,595/- was made purely on the basis of estimation and it is also stated that in transaction relating to trading of shares of M/s Ashutosh Paper Mills Ltd., the assessee has incurred loss. Therefore, looking to the facts and contentions of the assessee and the material placed before me, the impugned orders of the authorities below are set aside and the assessment is restored to the file of the Assessing Officer to decide it afresh after considering the objections and submissions of the assessee de novo. Grounds

raised in this appeal are allowed for statistical purposes.

6. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in open court on 11.05.2022.

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

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