

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.3100/Del/2019  
(Assessment Year : 2013-14)

B. J. Enterprises 506, Mercantile House 15 Kasturba Gandhi Marg, New Delhi – 110 001  PAN No. AAHFB 1414 G <b>(APPELLANT)</b>	Vs.	ITO Ward – 1(5) Ghaziabad  <b>(RESPONDENT)</b>
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Assessee by	Shri Rajesh Malhotra, C.A. Ms. Shivangi Kumar, Adv.
Revenue by	Shri Rajinder Jha, Sr. D.R.

Date of hearing:	28.04.2022
Date of Pronouncement:	23.05.2022

**ORDER**

**PER ANIL CHATURVEDI, AM :**

This appeal filed by the assessee is directed against the order dated 27.02.2019 passed by the Commissioner of Income Tax (Appeals) – Ghaziabad relating to Assessment Year 2013-14.

2. Brief facts of the case as culled out from the material on record are as under:-

3. Assessee is a partnership firm stated to be engaged in the business of trading of Iron and Steel. Assessee filed its return of income for A.Y. 2013-14 on 29.09.2014 declaring total income at Rs.78,000/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 29.03.2016 and the total income was assessed at Rs.1,62,08,321/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 27.02.2019 dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now in appeal and has raised the following grounds :

1. *“On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in rejecting the application moved under rule 46A of Income Tax Rules. The action of Ld. CIT(A) is wrong, illegal, misconceived and unjustified therefore it should be quashed.*
2. *On the facts and in the circumstances of the case and in law, the authorities below have erred in confirming the ad hoc addition of creditors Rs. 40,43,445/- (M/S Supreme Electroplast Pvt Ltd.) being cessation of trade liability u/s 41(1) of the Income Act. The action of authorities below is wrong, illegal, misconceived and unjustified therefore it should be quashed.*
3. *On the facts and in the circumstances of the case and in law, the authorities below have erred in confirming the addition of Rs.91,69,520/- u/s 68 on account of trade liability of M/s Shree Ganesh Enterprises. The action of authorities below is wrong, illegal, misconceived and unjustified therefore it should be quashed.*
4. *On the facts and in the circumstances of the case and in law, the authorities below have erred in confirming the addition of Rs. 29,17,356/- u/s 68 on account of trade liability from M/s Maxlit Traders. The action of authorities below is wrong, illegal, misconceived and unjustified therefore it should be quashed.”*

4. Before us, at the outset, Learned AR submitted that though various grounds have been raised by assessee but with respect to **Ground No.1** he submitted that the CIT(A) has not considered the additional evidences furnished before him and he has not decided the issue on merits.

5. Before us, Learned AR submitted that assessee had moved an application before CIT(A) under Rule 46A of Income Tax Rules for admission of additional evidence but the same was rejected by CIT(A). Learned AR thereafter pointed to the notice issued by the AO u/s 142(1) of the Act dated 14.03.2016 which is reproduced by the AO at Page 5 of the order and from that notice, he pointed that assessee was asked to produce the documents listed therein on 22.03.2016. He submitted that since the details called for by the AO was taking time, the assessee could not furnish the required details and AO without giving an opportunity framed assessment on 29.03.2016. He thereafter pointed to the application made under Rule 46A by the assessee before CIT(A) praying for the admission of additional evidences which according to the assessee goes to the root of the matter. He pointed to the list of the additional evidences which the assessee wanted to place on record before CIT(A) (the copy of which was placed at page 88 to 91 of the paper book). He submitted that CIT(A) did not accept the additional evidences. He submitted that the additional evidences goes to the root of the matter and in the interest of justice assessee may be given one more opportunity for

furnishing the required details and further the assessee undertakes to furnish all the required details called for by the authorities.

6. Learned DR did not controvert the submission made by Learned AR but however supported the order of CIT(A).

7. We have heard the rival submissions and perused the material available on record. The perusal of the CIT(A) order reveals that before the CIT(A) assessee had prayed for admission of additional evidences under Rule 46A of the I.T. Rules but the same was rejected by the CIT(A). Before us, Learned AR has filed an application under Rule 29 of the I.T. Rules for admission of the additional evidences in the form of ledger account and bank account reflecting the payment and other details. Before us, Learned AR has also pointed to the reasons as to why the aforesaid documents could not be filed before the authorities. The aforesaid contentions of assessee which prevented it from filing the documents before the authorities has not been controverted by Revenue. In such a situation, we are of the view that assessee was prevented from furnishing the required details before the authorities. It is a settled principle of natural justice that sufficient opportunity of hearing should be offered to the parties and no party should be condemned unheard. Considering the totality of the facts, we are of the view that the additional evidences filed before the CIT(A) be taken on record and the same

should be considered by CIT(A). We therefore direct the CIT(A) to consider the additional evidences filed by the assessee and after considering the additional evidences, submissions of the assessee and after making the required verification, decide the issue afresh on merits by a speaking order. In view of the aforesaid facts, we set aside the order of CIT(A) dated 27.02.2019 and restore the issue back to the file of CIT(A) for re-adjudication of the issues after considering the submissions of assessee and in accordance with law. Needless to state that CIT(A) shall grant adequate opportunity of hearing to both the parties. In view of our decision to restore the issue back to CIT(A), we are not adjudicating on merits the other grounds raised by assessee. **Thus the ground of assessee is allowed for statistical purposes.**

**8. In the result, appeal of the assessee is allowed for statistical purposes.**

**Order pronounced in the open court on 23.05.2022**

**Sd/-  
(ASTHA CHANDRA)  
JUDICIAL MEMBER**

**Sd/-  
(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Date:- 23.05.2022

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**Copy forwarded to:**

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI