

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT  
MEMBER AND SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No.561/Bang/2019</b>
<b>Assessment Year : 2013-14</b>

Shri. Harish Wadhwa Legal Heir of Shri Shivkumar Thanwardas Wadhwa, 165, 9 <sup>th</sup> Main, RMV Extention, Bengaluru – 560 080. <b>PAN : AAAPW 9599 G</b>	Vs.	ITO, Ward – 1(1)(1), Bengaluru.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri. Yogesh Joijode, CA
Revenue by	:	Shri. Sankar Ganesh K, JCIT (DR)(ITAT), Bengaluru.

Date of hearing	:	11.08.2022
Date of Pronouncement	:	22.08.2022

**ORDER**

*Per Chandra Poojari, Accountant Member:*

This is an appeal filed by the assessee directed against the order of CIT(A), Bengaluru, dated 15.01.2018. The assessee raised the following grounds:

1. *On the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in confirming the order of learned assessing officer with regards to addition of Rs. 24,32,500/- on account of unexplained cash deposits. It is submitted that the Hon'ble CIT(A) has made such arbitrary addition without considering the facts and circumstances of the case. It is therefore prayed that addition of Rs. 24,3,500/- is unjustified, unwarranted and shall be deleted and necessary direction shall be given in this regard.* 7,89,224/-
2. *On the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in confirming the addition of Rs.28,71,972/- being addition of unexplained expenses without considering the facts and circumstances of the case. It is therefore prayed that addition of unexplained expenses of Rs.28,71,972/- shall be deleted and necessary direction shall be given in this regard.* 9,31,810/-
3. *On the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in confirming the addition of Rs.54,30,000/- being undisclosed professional receipt. It is submitted that the Hon'ble CIT(A) has erred in not understanding the facts that receipt are already offered to tax. It is therefore prayed that addition of undisclosed professional receipt of Rs.54,30,000/- shall be deleted and necessary direction shall be given in this regard* 17,61,764/-
4. *On the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in confirming the addition of Rs.1,99,80,919/- considering it as an unexplained Investment in Commodity/Security Exchange. It is therefore prayed that addition of unexplained investment of Rs.1,99,80,919/- shall be* 64,82,807/-

2. The learned AR filed additional evidence along with a petition for admission of additional evidence.

3. The facts of the case are that in this case, the assessment was completed under section 143(3) of the Act in the case of Harish Wadhwa, Legal Heir of

Shri. Shivkumar Thanwardas Wadhwa. In the course of assessment, the AO made addition towards :

i.	Unexplained cash deposit	-	Rs.28,32,500/-
ii.	Unexplained expenditure		
	– Credit card expenses	-	Rs. 28,71,972/-
iii.	Undisclosed receipts	-	Rs.54,30,000/-
iv.	Unexplained investment in Commodity /		
	Security exchange	-	Rs.1,99,80,919/-

Thus, the AO made total addition of Rs.3,07,15,391/-.

4. Against this, assessee went in appeal before the CIT(A) who confirmed the order of the AO. Now, once again, the assessee is in appeal before us. Before us, the learned AR filed petition for admission of additional evidence explaining the reasons for not filing these documents before the lower authorities :

1. Cash Book
2. Corporation Bank Statements
3. Indusind Statements
4. Ledger of Aerolex Agro
5. ITR of Aerolex Agro for Assessment Year 2013-14.
6. Corporation Bank Statmeent of Aerolex Agro.

5. The learned AR submitted that if we consider the above documents with regard to the issue on which the AO made additions, there cannot be any additions to be sustained. Further, he submitted that the assessee in this case was no more at the time of assessment and it was represented by Mr. Harish Wadhwa, legal heir of Shri. Shivkumar Thanwardas. Shri. Harish Wadhwa was

not in possession of all the above documents at the time of assessment and he was prevented by sufficient cause in not producing these documents either before AO or CIT(A) and prayed that these additional evidence may be admitted for adjudication. The DR not put any serious objections on the plea of the assessee with regard to admission of additional evidence.

6. We have heard both the parties and perused the material on record with regard to admission of additional evidence. Admittedly, there is a reference of various documents cited by the assessee before us in the order of lower authorities. However, these documents are not produced neither before AO nor before CIT(A). It was pleaded before us that the assessment has been made in the name of legal heir Shri. Shivkumar Thanwardas Wadhwa and the legal heir Shri. S. Harish Wadhwa was not in possession of these documents and these documents are procured by assessee from the earlier Counsel of the assessee with great difficulty and was able to produce these documents before this Tribunal at the time of hearing. In our opinion, there is a good and sufficient reason in not producing these additional documents on earlier occasions before lower authorities and in our opinion, in the interest of justice, we have to admit these additional evidences. Accordingly, by placing reliance on the judgment of Hon'ble Supreme Court in the case of CIT Vs. NTPC 229 ITR 383, we admit these additional evidences for adjudication. Accordingly, after admitting these additional evidences, in the interest of justice, we remit the entire issue in dispute to the file of AO to consider these additional evidences and decide all these issues in accordance with law. At this state, we refrain from going into the merit of each issues raised before us.

7. In the result, both the appeals of the assessee are allowed for statistical purposes.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-

**(BEENA PILLAI)**  
**Judicial Member**

Sd/-

**(CHANDRA POOJARI)**  
**Accountant Member**

Bangalore.

Dated: 22.08.2022.

/NS/\*

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|---------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT        | 4. CIT(A)     |
| 5. DR         | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.