

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

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

ITA No. 9575/Del/2019: Asstt. Year: 2010-11

Ashok Kumar Khurana, C-426, Yojna Vihar, East Delhi, New Delhi-110092	Vs	Income Tax Officer, Ward-55(1), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AALPK7298R		

**Assessee by : Sh. Dinesh Mohan Sinha, Adv.
Revenue by : Sh. Om Parkash, Sr. DR**

Date of Hearing: 06.10.2022	Date of Pronouncement: 14.10.2022
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ORDER

1. The present appeal has been filed by the assessee against the order of the Id. CIT(A)-30, New Delhi dated 11.11.2019 for AY 2010-11.

2. Following grounds have been raised by the assessee:

- "1. There is a jurisdictional error. No statutory notices u/s 143(2) of the Act served on the Assessee.*
- 2. No furnishing of reason recorded for reopening of assessment by the ITO result in violation of law.*
- 3. Reason recorded, it is not specified about the quantum of tax which escaped assessment.*
- 4. That sanctioned to issue notice u/s 148 of the Act was granted mechanically by the Hon'ble CIT.*
- 5. Reopening of assessment is only on the basis of cash deposit in bank account is bad."*

3. The reasons recorded while issuing the notice u/s 148 are as under:-

"STR has been emanated by the department on account of suspicious transaction of cash deposit of

Rs. 21.58 lakh in the account in 30 transaction each of which transaction are just below the threshold limit of Rs. 50,000/-. On perusal of the statement of account, it has been observed that the transaction is for the period of FY 2009-10.

A statement of the assessee was recorded on 30.12.2012 wherein in response to Q. No. 2 it has been stated by the assessee that his income from business is at Rs. 20,000/- per month. Therefore, apparently the cash deposit of RS. 21.58 lakh during the period 18.12.2009 to 05.03.2010 remained unexplained.

4. At the outset, an objection has been taken by the Id AR that while the cash deposits are to the tune of Rs. 18,15,000/-, the reasons recorded for reopening has mentioned cash deposits of Rs. 21,058,000/-. The Id AR submitted that Rs. 3,08,000/- have been received by cheque and due confirmations have been submitted which have been ignored by the revenue authorities.

5. The assessee is in the business of reselling of waste of copper cable, PVC etc. The entire business of purchase of waste material and selling to recyclers is in cash. The Assessee submitted that based on the business the deposits have been made on day to day basis and purchases have also been made in cash.

6. The Id CIT(A) held that the cash deposits are in excess of Rs. 18 lakhs and the assessee has returned a very meager income of Rs. 2,33,610/-. The observation of the Id CIT(A) lacks of overall appreciation of the business of the assessee disregarding the fact that the cash deposits constitute the part of the overall turnover of the assessee. The assessee is into trading of waste material which is totally based on cash transactions. During the hearing it

was submitted that the assessee makes a profit of 5% on the sale and purchase and the same may be treated as the profit arised out of these transactions also. Having heard the revenue, keeping the peculiar facts and circumstances of the instant case, it is considered that justice would be met by determining 6% of the profit on the turnover of Rs. 1815000/- i.e. Rs.108900/- towards taxation.

7. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 14/10/2022.

Sd/-

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

Dated: 14/10/2022

Ajay Kumar Keot, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR