

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI

(DELHI BENCH 'G' : NEW DELHI)

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.2339/Del./2016
(ASSESSMENT YEAR : 2011-12)**

Shri Manish Maheshwari,
2081, Katra, Gokul Shah,
Sita Ram Bazar,
Delhi – 110 006.

(PAN : AAMPM3636C)

vs. ITO, Ward 28 (4),
New Delhi.

**CO No.79/Del/2022
(in ITA No.2339/Del./2016)
(ASSESSMENT YEAR : 2011-12)**

ITO, Ward 28 (4),
New Delhi.

vs.

Shri Manish Maheshwari,
2081, Katra, Gokul Shah,
Sita Ram Bazar,
Delhi – 110 006.

(PAN : AAMPM3636C)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Shri Abhishek Kumar, Senior DR

Date of Hearing : 17.10.2022

Date of Order : 19.10.2022

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee and cross objection by the Revenue arise out of the order of the Id. CIT (Appeals)-16, New Delhi dated 04.04.2016 and pertains to Assessment Year 2011-12.

2. The grounds of appeal raised in assessee's appeal read as under :-

“On the facts and in the circumstances of the case and in law the Ld. CIT (A) erred :

1. By confirming the addition of Rs.2874112/- out of total addition amounting to Rs.5748223/- made by the AO on account of unexplained deposits made by the assessee in the following bank accounts :-

- a) ING Vysya Bank A/c No.523010103303
- b) HDFC Bank A/c No.05531930003980

2. By confirming the addition of Rs.126263/- on account of not disclosing the amount in the return of income related with the party “M/s. Fire Remedies Appliances” on account of certain work done by the assessee which is reflected in 26AS statement of the assessee.”

3. The ground of cross objection taken by the assessee reads as under :-

“The Ld. CIT (A) has erred in law and has erroneously gave the benefit of 50% of expenditure to the assessee and directed the AO to give that benefit and bring the rest 50% of Rs.57,48,223/- i.e. Rs.28,74,112/- to tax.”

4. Brief facts of the case are that during the assessment proceedings, Assessing Officer examined the cash deposits in saving bank account as per AIR information which was not disclosed by the assessee. Assessee stated that he was maintaining two bank accounts and the amount deposited in the bank

accounts were business receipts. The AO provided numerous opportunities to the assessee to substantiate the claim that it was business receipts which were deposited in the bank in the normal course of business. However, assessee did not provide any supporting evidence. Ld. CIT (A) noted that it is undisputed that said banks were not disclosed to the Department and during the assessment proceedings and appellate proceedings, the assessee has not produced credible evidence in support of the deposits being business receipts. Despite such observation, ld. CIT (A) proceeded to grant 50% benefit to the assessee and held that he will be granting 50% of the receipts as expenditure benefit to the assessee and directed the AO to bring rest 50% amount to tax.

5. Against this order, assessee is in appeal and the Revenue has filed the aforesaid cross objection.

6. We note that despite several notices, none appeared on behalf of the assessee. Notice was got served upon assessee by the Department but none has attended. Hence, we proceed to adjudicate the issue by perusing the record and hearing the ld. DR for the Revenue.

7. We note that the impugned bank deposits were found in the bank accounts which were not disclosed to the Department. It is merely *ipse dixit* by the assessee that it is business receipts. *De hors* any supporting papers in this regard, it is only a self serving statement. Ld. CIT (A) clearly erred in granting 50% of the receipts as expenditure benefit to the assessee. There is no basis for

granting such benefit to the assessee. Hence, in the facts and circumstances of the case, in our considered opinion, AO was correct in adding the undisclosed cash deposit as income of the assessee. Accordingly, we set aside the order of the ld. CIT (A) and restore that of AO.

8. In the result, assessee's appeal is dismissed and Revenue's cross objection is allowed.

Order pronounced in the open court on this 19th day of October, 2022.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 19th day of October, 2022
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-43, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**