

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 951/DEL/2020 (A.Y 2011-12)**

M/s. Gold Coin Exim Pvt. Ltd., 65-66, Guru Ram Das Nagar, Laxmi Nagar, East Delhi, Delhi – 110 092.  <b>PAN No. AADCG6239M</b>  <b>(APPELLANT)</b>	Vs.	Income Tax Officer,  Ward : 10 (4)  New Delhi.  <b>(RESPONDENT)</b>
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<b>Assessee by :</b>	<b>Shri I. P. Bansal, Advocate,</b>
<b>Department by:</b>	<b>Shri Rajendra Jha, Sr. D. R.;</b>

<b>Date of Hearing</b>	<b>09.11.2022</b>
<b>Date of Pronouncement</b>	<b>15.11.2022</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This appeal is filed by the assessee for assessment years 2011-12, against the order of the Id. Commissioner of Income Tax (Appeals)-4, New Delhi [hereinafter referred to CIT (Appeals) dated 14.01.2020.

2. The assessee has raised the following substantive grounds of appeal:-

*“1. That on the facts and circumstances of the case the Ld CIT (Appeals)-4, New Delhi, erred in confirming an addition of Rs.6500000/- as bogus expenditure made by the ITO Ward 10(4) New Delhi.*

*2. That on the facts and circumstances of the case the Ld CIT (Appeals)-4, New Delhi, did not give reasonable and sufficient opportunity of being heard.*

*3. The addition/disallowance made are preserving, not based on evidence, opposed to evidence records, and are based on surmises and conjectures.”*

3. Brief facts of the case are that, the assessee had filed return of income declaring income of Rs. 16,97,800/-. The proceedings u/s 147/148 of the Income Tax Act 1961 (For short the “Act”) has been initiated after recording reasons for the Assessment Year 2011-12. The Ld. A.O. after perusal of the bank statement of the assessee found that RTGS Entry dated 11/05/2010 favoring Mahalaxmi Enterprises is reflecting an amount of Rs. 65,00,000/- paid to Mahalaxmi Enterprises. Therefore, the assessee was asked to submit the evidence of the nature, purpose of the payment and the agreement with Mahalaxmi Enterprises. But the assessee has expressed its inability to prove any evidence or also submitted that the assessee is not aware of the proprietor of the M/s Mahalaxmi Enterprises. Therefore, the Ld. A.O held that the said amount of Rs. 65,00,000/- is a bogus purchase, accordingly, disallowed the

same and added back to the income of the assessee vide assessment order on 10/12/2018.

4. Aggrieved by the assessment order dated 10/12/2018, the assessee has preferred an appeal before the CIT(A). The Ld.CIT(A) has dismissed the appeal ex-parte without adjudicating the appeal on the merit.

5. Aggrieved by the order dated 14/11/2020, the assessee has preferred the present appeal.

6. The Ld. Counsel for the assessee has taken us through the paper book and the case law paper book and submitted that the Ld.CIT(A) has erred in confirming the addition of Rs. 65,00,000/- as bogus expenditure, though the assessee has produced all the documents, vouchers in support of the assessee during the assessments proceedings vide letter dated 10/12/2018 and also submitted that the A.O. has not considered the documents produced by the assessee.

7. The Ld. DR has brought the entire assessment records and submitted that some of the documents which are part and parcel of the paper book filed by the assessee before the Tribunal are not found in the assessment record, the assessee neither produced any documents before the A.O. nor proved his case substantially. Therefore, submitted that, the present appeal is deserves to be dismissed.

8. We have heard the parties, perused the material on record and gave our thoughtful consideration. It is evident that the assessee has not appeared before the appellate proceedings and the Ld.CIT(A) has dismissed the appeal on 14/01/2020 for default, without deciding the issue on merit. Therefore, in our opinion, the matter deserves to be remitted to the file of Ld.CIT(A) with a direction to hear the assessee and pass the order in accordance with law.

9. Accordingly, we allow Ground No. 2 of the assessee by restoring the matter to the file of Ld.CIT(A) with a direction to decide the matter on merit. In view of allowing the Ground No. 2 by restoring the matter to the file of Ld.CIT(A) to decide the issue on merit, the other grounds on the merits requires no adjudication at our hands. Accordingly, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on : **15/11/2022.**

**Sd/-**

**( SHAMIM YAHYA )  
ACCOUNTANT MEMBER**

Dated : 15 /11/2022

**Sd/-**

**(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

*\*R.N, Sr. PS\**

Copy forwarded to :

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI