

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'SMC' : NEW DELHI)**

SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.7909/Del./2019
(ASSESSMENT YEAR : 2011-12)**

Smt. Sushma Aggarwal,
C-8/65, Sector 8, Rohini,
New Delhi – 110 085.

vs. ITO, Ward 37 (4),
New Delhi.

(PAN : AFTP9802L)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Smt. Sushma Aggarwal, Assessee
REVENUE BY : Shri Rajiv Kumar, Sr. DR

Date of Hearing : 10.11.2022

Date of Order : 23.11.2022

ORDER

This appeal by the assessee is directed against the order of the Id. CIT

(A)-13, New Delhi dated 24.07.2019 for the AY 2011-12.

2. The grounds of appeal read as under :-

“1. That the assessment order passed u/s 144 r.w.s. 147 of Income Tax Act, 1961 is bad in law and against the justice of natural law.

2. That the Id. CIT (A) erred in making addition of Rs.21,95,500/- on the ground of undeclared income of the assessee from undisclosed sources without considering the facts as produced by the assessee. The addition of Rs.21,95,000/- is unjustified, unwarranted and same may please be deleted.”

3. Brief facts of the case are that in this case, Assessing Officer passed assessment order under section 144 read with section 147 of the Income-tax

Act, 1961 (for short 'the Act'). AO noted that several notices were given but nobody appeared. He noted as per the facts of the case that assessee has entered into cash deposits of Rs.21,95,000/- in Financial Year 2010-11. That assessee was asked to explain the source of cash deposited but assessee did not respond. AO proceeded to add the said amount u/s 69 of the Act.

4. Upon assessee's appeal, ld. CIT (A) noted that the assessee along with ld. AR attended and argued the case and filed the written submissions. He noted that AO has given sufficient opportunity and assessee has not availed the opportunities to explain the matter before the AO. He noted that before him, assessee along with ld. AR appeared and submitted that no notice was received by her. Assessee filed copy of balance sheet, cash flow chart month-wise and date-wise, monthly sale purchase summary, bank statements and copy of loan accounts. Ld. CIT(A) noted that while purpose of loan account was not established and other documents were self made and not open to confirmation from a third party. He noted that all the submitted documents do not establish the basic claim that the assessee was engaged in the cloth business in the name of M/s. Gunjan Impex and the nature thereof. He noted that the assessee moved an application u/s 46A of the Act. The ld. CIT (A) declined to accept the additional evidences and dismissed the same and upheld the order of the AO.

5. Against this order, assessee is in appeal before us. I have heard both the parties and perused the records.

6. From the facts narrated above, it is clear that though there was non-appearance by the assessee before the AO and the reason attributed before the Id. CIT (A) was lack of receipt of notice. However, before Id. CIT (A), assessee has submitted all the necessary documents i.e. balance sheet, cash flow chart, bank statements etc. Strangely Id. CIT (A) held that these are self made and not open to confirmation from a third party. I find it absolutely absurd to accept that third party confirmation is required for the balance sheet and cash flow chart. Admittedly, Id. CIT (A) failed to apply mind to the case. Also the rejection of additional evidences filed by the assessee is totally uncalled for. In my considered view, in the interest of justice, the issue is remitted to the AO. AO is directed to consider the issue afresh in the light of the submissions and details submitted before the Id. CIT (A). Needless to add, adequate opportunity of being heard is to be provided to the assessee.

7. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on this 23rd day of November, 2022.

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

**Dated the 23rd day of November, 2022
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-13, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.