

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 1903/DEL/2020
Assessment Year: 2012-13

Vijay Singhal, D-30 Ashoka Road, Adarsh Nagar, New Delhi-110033. [E-21-22, Dairy Road, Adarsh Nagar, New Delhi-110033] PAN- AAZPS6380E	<u>Vs</u>	Income-tax Officer, Ward-36(2), New Delhi
APPELLANT		RESPONDENT
Assessee represented by		Shri Varun Gupta, CA
Department represented by:		Shri Sumesh Swani, Sr. DR
Date of hearing		05.12.2022
Date of pronouncement		23.12.2022

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-12, New Delhi, dated 14.09.2020, pertaining to the assessment year 2012-13. The assessee has raised following grounds of appeal:

“1. On the facts and circumstances of the case and in law, the Assessing Officer erred in issuing notice u/s 148 of the Income Tax Act, 1961. The notice u/s 148 issued in this case is illegal, void and without jurisdiction and accordingly the assessment order passed on the foundation of such notice is liable to be quashed. The Ld. Commissioner of Income Tax (Appeal) should have held the reassessment proceedings as illegal, void and without jurisdiction

2. *On the facts and circumstances of the case and in law, the Commissioner of Income Tax (Appeal) erred in confirming the addition made by the Assessing Officer of purchase of Rs. 8,50,000/- as alleged unexplained income u/s 69 of the Income Tax Act, 1961. The addition made by the Assessing Officer is not sustainable and Commissioner of Income Tax (Appeals) should have deleted.*
 3. *On the facts and circumstances of the case and in law, the Commissioner of Income Tax (Appeal) erred in confirming the addition of Rs. 17,000/- made by the Assessing Officer as alleged commission paid. The addition made by the Assessing Officer is not sustainable and Commissioner of Income Tax (Appeal) should have deleted the same*
 4. *The alleged reasons given by Assessing Officer and CIT (A) for making/confirming the additions of Rs. 8,50,000/- and Rs. 17,000/- are erroneous, both on facts and in law and, therefore, the additions of Rs. 8,50,000/- and Rs.17,000/- made by the Assessing Officer and confirmed by CIT (A) are liable to be deleted.*
 5. *The additions made and the observations made are unjust, unlawful and based on mere surmises and conjunctures. The additions made cannot be justified by any material on record and additions are also excessive.*
 6. *The explanation given in the evidence produced, material placed that has been made available on record has not been properly considered and judicial interpreted and the same do not justify the additions/ allowances made.*
 7. *That the assessee reserves the right to add, amend, alter the grounds of appeal.”*
2. Facts of the present case are identical to the facts as in the case of Renu Singhal (ITA no. 1902/Del/2020). At the outset learned representatives of the parties have adopted the same arguments as were made in the case of Renu Singhal (supra).

3. I have heard the learned representatives of the parties. Facts are identical as were in ITA no. 1902/Del/2020 in the case of Renu Singhal, wherein identical issues, by order of even date, have been decided by observing as under:

6. *I have heard rival contentions and gone through the material available on record. So far the question of reopening of the assessment is concerned, we find that the reopening was based upon some information that suggested escapement of income. Therefore, the Assessing Officer was justified in reopening the assessment. The case laws, as relied upon by the assessee would not help as in the present case it is not a case where the assessee had not entered the transaction with the party who had provided accommodation entries. Hence, the grounds taken against the validity of reassessment are dismissed.*

7. *Now coming to the merits of the addition, the contention of the assessee is that all purchases are supported by invoices and payments have been made either on-line or through account payee cheques. Purchases have been duly accounted by M/s Radhika Trading Co. as per the returns in DVAT Department and also Income-tax Department. The existence of such party was duly provided. It was further argued that it is not the case of the Assessing Officer that the sale made by the assessee was not commensurate with the purchases claimed by her. When the sale is not disturbed by the Assessing officer, how purchases would become bogus. The manufacturing cannot be in vacuum. Therefore, it was argued that the impugned addition deserves to be deleted.*

8. *Learned DR on the other hand, submitted that the Assessing Officer had carried out the enquiries which suggested that M/s Radhika Trading Co. was entry provider entity which was working on paper only. It is seen that the assessee had provided relevant documents relating to M/s Radhika Trading Co.. However, no material has been placed on record suggesting that such entity was not in existence and the evidences furnished by the assessee were not reliable on account of being bogus. In the absence of such material the impugned addition cannot be sustained. Therefore, the Assessing Officer is directed to delete the addition.”*

4. For the same reasoning, grounds of appeal relating to the validity of reassessment are dismissed and the other grounds on merit are allowed.

5. Assessee's appeal stands partly allowed accordingly.

Order pronounced in open court on 23rd December, 2022.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**