

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : C : NEW DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER  
AND  
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA No.2154/Del/2019  
Assessment Year: 2015-16

Krishan Kumar Lal,  
N-3, Shyam Nagar,  
Khayala Road,  
New Delhi.

Vs. ITO,  
Ward-45(3),  
New Delhi.

PAN: AKSPK6997J

(Appellant)

(Respondent)

Assessee by	:	Shri R.S. Singhvi, CA
Revenue by	:	Shri Anuj Garg, Sr. DR
Date of Hearing	:	14.02.2023
Date of Pronouncement	:	24.02.2023

ORDER

PER C.M. GARG, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 19.12.2018 of the CIT(A)-15, Delhi, relating to Assessment Year 2015-16.

2. The grounds of appeal taken by the assessee read as under:-

*"(i) That on facts and circumstances of the case, the CIT(A) was not justified in upholding the addition of Rs. 17,08,444/- u/s 68 of the Income Tax Act, 1961 even though same is illegal and wholly without jurisdiction.*

*(ii) That notice u/s 143(2) was issued for the purpose of limited scrutiny and issue of loan being not the subject matter of such proceedings, the impugned addition without converting limited scrutiny into regular/full scrutiny is not in accordance with CASS guidelines issued by CBDT.*

*(iii) That the assessing officer having failed to comply with the mandatory CASS guidelines issued by CBDT, the impugned addition is not justified under the law.*

*2(i) That on facts and circumstances of the case, the CIT(A) was not justified in confirming the addition of Rs. 5,88,994/- being unsecured loan and internal bank transfers on the alleged ground of unexplained cash credit u/s 68 in the Kangra Co-operative Bank Ltd.*

*(ii) That the Ld. CIT(A) was not justified in upholding the additions of Rs. 11,19,450/- in respect of credit entries in the HDFC bank account being loans disbursed by HDFC Bank on the alleged ground of cash credit u/s 68 of the Act.*

*3(i) That CIT(A) is not justified in not admitting the documentary evidences in support of genuineness of loan and addition was confirmed on illegal and arbitrary basis.*

*(ii) That these evidences are vital for adjudication of ground in respect of addition made u/s 68. That even otherwise, the Assessing Officer did not allow proper reasonable opportunity for furnishing the requisite evidences and addition is made in illegal and arbitrary manner.*

*(iii) That these evidences have direct bearing to the issue in dispute and the CIT(A) should have admitted the same in interest of justice and proper adjudication of ground.*

*4. That the Assessing Officer has erred in charging interest u/s 234A, 234B, 234C without application of mind and proper opportunity.*

*5. That the orders of the lower authorities are not justified on facts and the same are bad in law.*

*6. That the assessee craves leave to add, amend, alter or forgo any or all of the grounds as may be necessary and in the interest of justice. "*

3. The Id. Counsel of the assessee submitted that the learned CIT(A) has rejected application of the assessee filed under Rule 46A of the IT Rules, 1962 without any cogent and justified reason. Therefore, the additional evidence filed by the assessee before the Id. First appellate authority may kindly be admitted for consideration.

4. The Id. AR also submitted that the Id.CIT(A) has rejected the application of the assessee for admission of additional evidence merely by observing that the assessee had been given reasonable and full opportunity during the assessment proceedings and no such documents were submitted before the AO. But, the AO received response of Kangra Cooperative Society, Janak Puri Branch in response to notice u/s 133(6) of the Act and, thereafter, the assessee filed reply on 14.12.2017 which were not considered by the AO and he proceeded to hold that none attended nor any details have been filed and he made addition in the hands of the assessee. The Id. AR submitted that due to this reason the assessee could not file relevant documentary evidence before the AO which was submitted before the Id.CIT(A) and there was sufficient cause for the assessee as per requirement of Rule 46A of the Act. Therefore, the additional evidence ought to have been admitted and considered by the Id.CIT(A) for adjudication of grounds of assessee placed in form No.35 of first appeal.

5. Replying to the above, the Id. Sr. DR strongly supported the orders of the authorities below. However, in all fairness he submitted that if it is found just and proper, then, the Department has no objection if the matter is restored to the file of the CIT(A) for re-adjudication of appeal.

6. On careful consideration of the above submissions, we are of the considered view that the Id.CIT(A) rejected the application for admission of evidence under Rule 46A of the Act without any justified and cogent reasons. On the other hand, we clearly observe that there was sufficient cause for the assessee for non-submission of documentary evidence which was filed in the form of additional evidence before the

Id.CIT(A), therefore, the Id.CIT(A) ought to have admitted the additional evidence for his consideration during adjudication of appeal of the assessee. Therefore, the order of rejection of additional evidence is set aside and the additional evidence is admitted for his consideration and the matter is restored to the file of the Id.CIT(A) to the first appellate stage with a direction that the Id. First appellate authority would adjudicate the grounds of the assessee afresh without being prejudiced from the earlier first appellate order and after allowing due opportunity of hearing to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 24.02.2023.

Sd/-

(B.R.R. KUMAR)  
ACCOUNTANT MEMBER

Sd/-

(C.M. GARG)  
JUDICIAL MEMBER

Dated: 24<sup>th</sup> February, 2023.

dk

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi