

**THE INCOME TAX APPELLATE TRIBUNAL
DELHIBENCH 'A', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member
Sh. Yogesh Kumar US, Judicial Member**

ITA No. 285/Del/2020: Asstt. Year: 2016-17

Amber Traders Pvt. Ltd, C/o. Rohit Tiwari, 8024, ATS Green Paradiso, CHI IV, Noida -201310	Vs.	ITO, Ward-2(3), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAMCA3871A		

Assessee by : Ms. Tanya, Adv

Revenue by : Sh. Kanv Bali, Sr. DR

Date of Hearing: 23.02.2023

Date of Pronouncement: 01.03.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order dated 28.11.2019 passed by the CIT(A)-22, New Delhi for Assessment Year 2016-17.

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

"1. That on the facts & in the circumstances of the case and in law, the order passed by Learned Income Tax Officer, Ward-2(3), New Delhi ("Ld. AO") and Ld. CIT(A) is wrong and bad in law.

2. That on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the action of Ld. AO of passing order under section 68 of Income Tax Act, 1961 ("the Act").

3. That the Ld. CIT(A) is not justified in disposing off the appeal exparte without allowing sufficient and real opportunity to the appellant to represent the case and hence, the impugned order passed requires to be set-aside / cancelled.

4. That on the facts and circumstances of the case and in law, the Ld. CIT(A) grossly erred in confirming the action of the Ld. AO of enhancing the income of appellant by sum of INR 2,37,00,000/- in perfunctory manner and ignoring the fact that

the appellant has discharged its onus to prove the identity, credit worthiness and genuineness of the transaction.

5. That on the facts and in circumstances of the case, the Ld. AO/Ld. CIT(A) failed to appreciate that the necessary confirmations were filed by the appellant thereby discharging the onus to prove the source of said transaction.

6. That the Ld. AO/Ld. CIT(A) has erred in levying interest under section 234B of the Act.

7. That the Ld. AO/Ld. CIT(A) has erred on the facts and circumstances of the case and in law in initiating the penalty proceedings under section 271(1)(b) and 271(1)(c) of the Act.

8. That above grounds of appeal are mutually exclusive and without prejudice to each other. The appellant craves leave to add, alter, amend and/or modify any of the ground ground(s) during or before the hearing of the appeal”

3. Heard the arguments of both the parties and perused the material available on record.

4. The order has been passed ex parte owing to non compliance from the side of the assessee. Before us it was pleaded that given an opportunity the assessee would comply to the notices and questionnaires before the First Appellate Authorities. Since no prejudice would be caused to revenue, we remand the matter to the file of the Id CIT(A) for adjudication afresh. The Id CIT(A) would be at liberty to invoke necessary provisions of the Act in case of non-compliance to the notices issued.

Order Pronounced in the Open Court on 01/03/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 01/03/2023

Ajay Kumar Keot, Sr. PS