

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC-II' NEW DELHI**

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 2837/Del/2016

Assessment Year: 2012-13

M/S UNIVERSAL BOOK
DISTRIBUTORS PVT. LTD.,
5, ANSARI ROAD, DARYAGANJ,
NEW DELHI - 110 002

VS. ITO, WARD 18(1),
NEW DELHI
ROOM NO. 247, CR BLDG.,
NEW DELHI - 110002

(PAN: AAACU0004B)

(ASSEESSEE)

(RESPONDENT)

Assessee by: SH. SACHIN VASUDEVA, CA

Revenue by: SH. ANIL SHARMA, SR. DR.

ORDER

This appeal is filed by assessee against the order dated 2.6.2015 passed by the Ld. CIT(A)-9 New Delhi relating to Assessment Year 2012-13 on the following grounds:-

1. (a) That the learned CIT(A) has erred in sustaining the disallowance of business loss amounting to Rs. 39,30,602/- made by the learned Assessing Officer on the alleged contention that no business was carried on by the appellant since only one purchase and one sale transaction formed part of the business of the appellant.

(b) That in this connection, the learned CIT(A) has erred in concurring with the contention of the learned Assessing Officer that the managerial remuneration of Rs. 36,00,000/- paid to the Managing Director, had been paid with the intention to reduce the income from house property which the appellant earned during the year under consideration.

(c) That in any case and without prejudice, no loss to revenue is caused as the Managing Director has paid tax at the same rate at which the appellant was taxable.

2. That the learned CIT(A) has erred in law in not accepting the additional evidence in terms of copy of the balance confirmation received from its customer i.e., Shri Mohan Lal Sukhadia University, Rajasthan and copy of income-tax return acknowledgement of the Managing Director Mr. Anshul Chawla alongwith copy of Form 16 & intimation under section 143(1) of the Act, produced by the appellant under Rule 46A of the Income tax Rules, 1962.

3. That the appellant craves leave to add, amend and/or alter the grounds at a later stage.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. At the time of hearing, Ld. Counsel of the assessee stated that the learned CIT(A) has erred in law in not accepting the additional evidence in terms of copy of the balance confirmation received from its customer i.e. Shri Mohan Lal Sukhadia University, Rajasthan and copy of income-tax return acknowledgement of the Managing Director Mr. Anshul Chawla alongwith copy of Form 16 & intimation under section 143(1) of the Act, produced by the assessee under Rule 46A of the Income tax Rules, 1962. He stated that these documents /additional evidences supports the claim of the assessee which has wrongly been rejected by the Ld. CIT(A), but the same are very much essential for substantiating the claim of the assessee. Therefore, he requested that the issue involved in the present appeal may be set aside to the AO to decide the same afresh as per law, after admitting the additional evidences filed by the assessee and assured the Bench that assessee will produce all the evidences on the addition in dispute and will cooperate with the AO.

4. On the contrary, Ld. DR opposed the request of the Ld. Counsel of the assessee and relied upon the order of the authorities below.

5. I have heard both the parties and perused the records. I have gone through the impugned order passed by the Ld. CIT(A), the grounds of appeal. I find that the assessee has reiterated the grounds of appeal and stated that learned CIT(A) has erred in law in not accepting the additional evidence in terms of copy of the balance confirmation received from its customer i.e. Shri Mohan Lal Sukhadia University, Rajasthan and copy of income-tax return acknowledgement of the Managing Director Mr. Anshul Chawla alongwith copy of Form 16 & intimation under section 143(1) of the Act, produced by the assessee under Rule 46A of the Income tax Rules, 1962. I find considerable cogency in the assessee's counsel that the aforesaid additional evidences supports the claim of the assessee which has wrongly been rejected by the Ld. CIT(A), however, these documents are very much essential for substantiating the claim of the assessee. In view of the above, I am of the considered view that the additional evidences filed by the assessee before the Ld. CIT(A) are very much essential for rendering the justice to the assessee. Therefore, I admit the said additional evidences filed by the assessee before the Ld. CIT(A) and set aside the impugned order and remit back the issues in dispute to the file of the AO with the direction to decide the issue in dispute as per law, after giving adequate opportunity of being heard and after considering the additional evidences. The Assessee is also directed to file all the necessary evidences/documents

before the AO for substantiating its claim before the AO and fully cooperate with the AO and not to take any unnecessary adjournment.

6. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the Open Court on 20/01/2017.

SD/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 20/01/2017

“SRBHATNAGAR”

Copy forwarded to: -

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

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches