

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

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 428 /DEL/2022  
Assessment Year: 2017-18**

DCIT, Central Circle-29, New Delhi. PAN- ABIFS6373H	<u>Vs</u>	M/s Chadha Sugars and Industries Pvt. Ltd. 24A, Bharat Nagar, New Friends Colony, New Delhi-110025.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Shri Deepak Gupta, Adv.	
<b>Department represented by</b>	Shri Shankar Lal Verma, Sr. DR	
<b>Date of hearing</b>	01.06.2023	
<b>Date of pronouncement</b>	05.06.2023	

**ORDER**

**PER ANUBHAV SHARMA, JM:**

The Revenue has come in appeal against the order dated 09.12.2021 passed by the Commissioner of Income Tax (Appeals)-30, New Delhi (hereinafter referred as “learned First Appellate Authority” or in short “FAA”) in appeal no. 10270/2019-20 for the assessment year 2017-18, arising out of assessment order dated 18.12.2019 u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred as the “Act”), passed by the Assistant Commissioner of Income Tax, Circle-29, New Delhi (hereinafter referred in short as “Ld. AO”).

2. The assessee is doing the business of manufacturing of sugar, alcohols and generation of electricity. Return declaring income at Nil under normal provisions of the Act and Rs. 5,03,19,374/- u/s 115-JB of the Act was filed. The return was taken up for scrutiny assessment for the issue of large value cash deposit during the demonetization period. The learned AO was not satisfied with the explanation of the assessee with regard to deposit of cash during demonetization period and made addition of Rs. 2,15,45,094/-, which was deleted by the learned CIT(A), for which Revenue is in appeal raising following grounds:

*“1. Whether on the facts and laws and circumstances of the case and in law . the Ld. CIT(A) ignored the fact the cash deposits during the demonetization period far exceeds the cash deposits during corresponding period in the previous year.*

*2. Whether on the facts and laws and circumstances of the case and in law. the Ld. CIT(A) ignored the fact that the assessee could not explain the source of the cash deposit figures provided earlier and later on the changed figures during the course of assessment proceedings.*

*3. Whether on the facts and laws and circumstances of the case and in law . the Ld. CIT(A) ignored the fact that the assessee did not produce supporting documents w.r.t the withdrawal of cash from PSB Bank.*

*4. Whether on the facts and laws and circumstances of the case and in law. the Ld. CIT(A) ignored the fact that the assessee was given sufficient opportunity during the course of assessment proceedings w.r.t such explanation of cash deposit during the demonetization period.*

*5. Whether the order of the CIT(A) is perverse, erroneous and is not tenable on facts and in law.*

6. *Whether the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.”*

3. Heard and perused the record.

4. Primarily the contention of the learned DR was that learned AO had given a reasoned finding on the basis of failure of the assessee company to establish cash withdrawals from the bank and learned CIT(A) relied on the submissions alone of the assessee and without any evidence and deleted the addition made by the learned AO.

5. Learned AR, however, stressed on the fact that all the relevant evidences were produced before the learned AO and he reluctantly submitted that learned AO had passed the order without discussing the evidences of assessee and that learned CIT(A) has taken due consideration of the submission of the assessee and passed the impugned order.

6. Giving thoughtful consideration to the material on record it comes up from the assessment order that in paragraph 5 learned AO observed as follows:

*“5. During assessment proceedings, specific notice has been issued to the assessee vide online letter F.No. ITBA/AST/F/142(1)/2019-20 dated 23.11.2019 regarding nature of business and source of cash deposits, which is reproduced as:-”*

**(NO matter is reproduced)**

6.1. Thereafter in paragraph 7 the learned AO observes as follows:

*“5. The reply of the assessee is as under:-”*

**(NO matter is reproduced)**

6.2. In paragraph 8 the learned AO observes as follows:

*“8. The reply of the assessee in the specified format is as under”-”*  
**(NO matter is reproduced)**

6.3. Thereafter in paragraph 10.3 the learned AO has observed as follows:

*“10.3 The assessee has provided the revised figures of the cash deposit during the demonetization period as compared to the same period of previous year. These figures provided by assessee are reproduced as under:-”*  
**(NO matter is reproduced)**

7. It is apparent from the aforesaid paragraphs that the learned AO seems to have fallen in error in not reproducing what he intended to reproduce in the aforesaid paragraphs. The assessment order indicates that these paragraphs were vital to understand as to how the learned AO approached the controversy and what were the relevant evidences produced by the assessee. Learned CIT(A) seems to have also fallen in error in not taking cognizance of this inchoate assessment order and merely relying the submissions of assessee reached the conclusion that cash deposits during demonetization were justified and explained. The orders of tax authorities below do not indicate or reproduce what part of the financials were submitted by the assessee and considered. The Tribunal being last fact finding Authority need to assure that the orders of learned tax authorities below narrate all the relevant facts and evidence relied to reach a conclusion. Certainly the order of learned AO was cryptic and full of latches. If avoiding the latches in the order of learned AO, the learned CIT(A), exercising his co-terminus powers as AO, then

learned CIT(A) ought to have sought for relevant evidences of the financials to decide the withdrawal from the banks, sales, cash in hand and then to give conclusion to delete the addition. Instead, what he did was that mere rely the submissions in the form of month-wise cash receipts, sales and cash deposit statements provided by the assessee.

8. The grounds are sustained. The order of learned CIT(A) is set aside. In the light of aforesaid discussion with regard to defect and latches in the order of learned AO, the issues are restored to the file of learned AO to take into consideration the submissions and evidences from financials of the assessee with regard to justification of the deposit of disputed cash and then pass fresh assessment order. **The appeal of Revenue be considered allowed for statistical purposes.**

Order pronounced in open court on 05.06.23.

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA )**  
**ACCOUNTANT MEMBER**  
**\*MP\***

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI