

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H": NEW DELHI**

**BEFORE**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 1439/Del/2021  
Asstt. Year: 2013-14

Shashi Gupta, D-1/21, Janakpuri, New Delhi – 110 058 PAN AFEPG6511M (Appellant)	Vs.	ITO, Ward-49(4) New Delhi.  (Respondent)
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Assessee by:	Shri Jaspal Singh, AR
Department by:	Ms. Sapna Bhatia, CIT-DR
Date of Hearing:	09.08.2023
Date of pronouncement:	09.08.2023

**ORDER**

**PER ASTHA CHANDRA, JM**

The appeal filed by the assessee is directed against the order dated 18.08.2021 of the Ld. Commissioner of Income Tax, (Appeals), Delhi-42 (CIT(A)) pertaining to Assessment Year ("**AY**") 2013-14.

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

*"1. The Learned CIT Appeal has overlooked the facts of the case and has passed the order which is against the natural justice of case.*

*2. The Learned CIT Appeal, instead of pin-pointing the additions made by the Learned ITO, has supported his additions without any supporting documents. The additions made of Rs 16,74,226 cannot be reached by permutation or combination of any credits in the bank statement of the Assessee. There is no*

*single entry of Rs 16,74,226 in the bank statement. Hence, addition is not justified at all.*

*3. If Learned CIT Appeal wanted some supporting document, he could have asked us to submit the same which we could have given him instantly. The supportings for credit entries in the bank statement has already been submitted to the Assessing Officer. Since there is no single entry of Rs 16,74,226, we cannot submit any supporting document.”*

3. Briefly stated, the assessee individual belongs to Data Group on which search under section 132(1) of the Income Tax Act, 1961 (**the “Act”**) was conducted on 14.10.2015 at Alwar & Jaipur. During search at the residential premises of Shri Vijay Data of Alwar bills of purchase of jewellery aggregating to Rs. 36,82,484/- related to the assessee were found. Information along with seized documents related to the assessee was forwarded to the Ld. Assessing Officer (**“AO”**) to initiate proceedings under section 153C r.w.s. 153A of the Act. Accordingly, the Ld. AO commenced proceedings and issued statutory notice(s) in response to which the assessee filed reply on 26.12.2018, extract of which is at page 2 and 3 of the assessment order. In response to show cause vide order sheet entry dated 26.12.2018 why credit entries reflected in bank account be not treated as unexplained, the assessee filed reply vide letter dated 28.12.2018 which is also extracted in the assessment order. The explanation was found to be not tenable by the Ld. AO. He observed that the assessee did not file any supporting document/evidence to justify credit entry of Rs. 16,74,226/- in the bank account. Since the assessee had filed her return for AY 2013-14 on 25.07.2013 declaring income of Rs. 4,86,000/- the Ld. AO completed the assessment on total income of Rs. 21,60,226/- on 31.12.2018 under section 153A/153C of the Act.

4. Aggrieved, the assessee filed appeal before the Ld. CIT(A) challenging the impugned addition. The Ld. CIT(A) confirmed the addition by observing in para 5 of his appellate order as under:-

*“5. It is observed that despite having repeated opportunities through hearings fixed on 07.02.2020, 16.03.2020, 27.04.2021 and 17.08.2021, the appellant has submitted only a very cryptic submission which is re-produced above. The appellant has not submitted the narrations of the credit entries in the bank account. No copy of evidences/ explanations submitted before the AO have been submitted. The appellant has only mentioned that the addition made by the AO is without any base. However, no reason/ argument has been given as to how the addition made by the AO is without any basis. The AO has given an unambiguous and conclusive finding that the appellant could not prove credit entry of Rs. 16,74,226/-. The only ground raised is that there is no such credit entry in the bank account. However, it is observed from the bank account that there are multiple credit entries of substantial amounts in the bank account during the relevant period and it seems that AO is not referring to a single entry of Rs. 16,74,226/- but to multiple entries aggregating to that amount. It is the duty of the appellant to disclose full and complete facts before the appellate authority. Despite repeated opportunities, the appellant has failed to submit any argument or evidence to assail the findings of the AO. In the circumstances, the addition made by the AO is confirmed.”*

5. Dissatisfied, the assessee is before the Tribunal and all the grounds relate thereto.

6. The Ld. AR made the following written submission before us which we reproduce below:-

*“In context to the above addition made by the Ld ITO, we have explained our position to the Ld CIT Appeal but our request was overlooked and without seeing the actual papers submitted by us, the Ld CIT rejected our appeal.*

*We would like to highlight that there were only four credit entries for Rs 88,94,000, Rs 9,45,000, Rs 14,02,762 and Rs 47,20,000 for which we have given the confirmations in our appeal to the Ld CIT. We are submitting a copy of those confirmations to your good-self and request you to delete the additions made by Ld ITO in their assessment order.*

*The amount of Rs 16,74,226/- added by Ld ITO is without any supporting document and it is not explained by him how he arrived at this figure. We have tried our level best to get this figure by permutations and combinations of different figures but all in vain because all the four entries as stipulated above do not match with the additions figure made by Ld ITO.*

*We are giving confirmations again to your good-self and request you to kindly reverse the order of Ld ITO.”*

7. The Ld. CIT(DR) conceded to our observation that the Ld. CIT(A) did not decide the appeal on merits.

8. We have heard the Ld. Representative of the parties and perused the records. We observe that the proceedings under section 153C r.w.s. 153A were initiated to find out whether the source of purchase of jewellery as reflected in the purchase bills related to the assessee found in search at the residential premises of Shri Vijay Data of Alwar was explained or not. The assessment order is silent on it. Enquiry was made by the Ld. AO on credit entries in assessee's bank account. Explanation was offered by the assessee during assessment proceedings which has been rejected by the Ld-. AO without assigning any valid reason at all. The Ld. CIT(A) has also not examined the assessee's case on merits. On the facts and in the circumstances of the assessee's case, we deem it fit to remit the matter back to the file of the Ld. CIT(A) to decide the issue afresh after allowing reasonable opportunity of being heard to the parties. We order accordingly.

9. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

**Order pronounced in the open court on 9<sup>th</sup> August, 2023.**

**sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**sd/-  
(ASTHA CHANDRA)  
JUDICIAL MEMBER**

Dated: 09/08/2023

**Veena**

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	