

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 965/DEL/2023**

**[Assessment Year: 2014-15]**

IBG (India) P. Ltd., 23, West Avenue Road, Punjabi Bagh, New Delhi-110026  <b>PAN-AAACI2314L</b>	<u>Vs</u>	Income-tax Officer, Ward-12(1), New Delhi
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	<b>Shri G.S. Kohli, CA</b>	
<b>Department represented by</b>	<b>Shri Om Parkash, Sr. DR</b>	
<b>Date of hearing</b>	<b>20.09.2023</b>	
<b>Date of pronouncement</b>	<b>27.09.2023</b>	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 24.02.2023, pertaining to the assessment year 2014-15. The assessee has raised following grounds of appeal:

*“1. The Appellate Order of CIT (Appeal) are illegal, unlawful and are against the natural law of justice.*

*2. In the circumstances and facts of the case the learned CIT (Appeal) was not justified in confirming an addition of Rs.35,00,000/-.*

3. *That the documents sought by CIT (Appeal) related to appellate proceedings were placed on the record vide letter dated 09/01/2023.*

4. *Late the learned CIT(Appeal) has not provided an appropriate opportunity to comply with the sought information and dismissed an appeal in haste.*

*(i) The First Appellate Notice dated 15/02/2023 where the date of its compliance was given 20/02/2023.*

*(ii) The appellant filed an application dated 18/02/2023 giving the contention that the banker's will take some time to comply with the sought information and thus an adjournment was sought for 15 days.*

*(iii) The appellate order has been passed on 24/02/2023.*

6. *That the appellant craves their right to amend, delete or add any grounds of appeal at or before the time of hearing."*

2. Briefly stated facts are that assessee is a company duly registered under the Companies Act and filed its return of income through electronic mode on 20.02.2015 at Nil income. The case was selected for scrutiny through CASS and a notice u/s 143(2) of the Income-tax Act, 1961 (hereinafter referred to as the "Act") was issued on 28.8.2015. In response to the statutory notice the Director of the Company Mr. Surjit Singh attended the proceedings. The AO noticed that the assessee had deposited a sum of Rs. 3,00,000/- in cash in its bank account. The assessee was asked to explain the source of cash deposit and furnish the evidence in respect of the same. However, AO noticed that the assessee failed to furnish the relevant evidence. Therefore, he made addition of Rs. 3,00,000/- and assessed

income at Rs. 3,00,000/-. Aggrieved against this assessee preferred appeal before the learned CIT(A), who enhanced the income by Rs. 35,00,000/-. Aggrieved against this the assessee preferred appeal before the Tribunal in ITA no. 5651/Del/2018 and the matter was restored to the file of learned CIT(A) to re-decide the issue after providing sufficient opportunity to the assessee regarding addition of Rs. 35,00,000/-. Learned CIT(A) reaffirmed the addition made on account of cash deposits.

3. Apropos to the grounds of appeal learned counsel for the assessee vehemently argued that the learned CIT(A) failed to appreciate the fact in right perspective and sufficient opportunity was not granted to the assessee. He submitted that the learned CIT(A) failed to appreciate the fact that the A/c no. 67170726788 does not belong to the assessee as admittedly learned CIT(A) had in earlier round of litigation stated in para 7.2 of the impugned order that the assessee further cash deposits in another bank account no. 67170726788 held by the appellant in the State Bank of Travancore. In this regard learned counsel for the assessee drew my attention to the bank statement filed in the paper book at page 23 to demonstrate that the account in question was held by Mr. Surjit Singh in his individual capacity and the authorities below have wrongly taxed the deposits in assessee's hand, which is independent juristic person.

4. On the other hand, learned DR supported the orders of the authorities below.
5. I have heard the learned representatives of the parties and have gone through the material available on record. The learned CIT(A) sustained the addition by observing as under:

*“4.1 In response to above notice appellant sought time. Accordingly, further opportunity and time is given vide this office Notice dated 20.02.2023. However, appellant could not give details / proofs etc. as called for, with giving supporting evidence of Bank Account opening forms clearly indicating nature and type of account with its ownership as Shri Surjit Singh in individual capacity, as against of representing appellant Company being a Director of appellant Company. Without this conclusive proof, it would be difficult to hold to the view that these cash deposits as high as Rs.35 lakhs as attributable to accounted receipts of individual Shri Surjit Singh in his individual capacity, when the same person has represented the appellant as Director of Appellant before Assessing Officer and has indeed admitted to tax one such cash deposit found in the Bank Account of appellant as unexplained. This addition was again contested before Hon’ble ITAT and same has been upheld by Hon’ble ITAT. Further, the enhancement as made by Hon’ble CIT(A) is also on account of finding such Bank Account statement as filed by the appellant for its scrutiny proceedings before AO. Apparently, it is not reconcilable or convincing to comprehend, why the individual Bank account statement of Shri Surjit Singh is submitted by Shri Surjit Singh before A.O, for appellant’s company scrutiny proceedings. Hence in view of these discrepancies, appellant’s claims are neither reasonable nor acceptable, without having supporting proofs of such Bank account opening forms and ledger account statement of Shri Surjit Singh/this bank account etc., as appearing in the appellant’s books so as to arrive at its true facts and correct accounting as per the ownership of this cash deposits indeed. Hence, in the absence of the same, appellant’s contentions that the cash deposit as emanating from other than appellant's bank account is neither conclusively established nor proven satisfactorily. Apparently, Bank account statement as provided by the appellant is only for the short period from 15.4.2013 to 28.4.2013 and same refers to the relevant cash deposits and the appellant could not submit complete bank statement as called for, for the entire period 1.01.2013 to 31.3.2014 so as to verify and reconcile any further transfer of these cash deposits to appellant company during the year*

*as applicable for A.Y. 2014-15. In the absence of the same, appellant's claims that these cash deposits are only attributable to Shri Surjit Singh as Director of appellant Company for his individual capacity as against of its addition in the appellant company is not completely reconcilable as acceptable. No further evidence is also made available by the appellant such as Return of Income of Shri Surjit Singh in his individual capacity, considering this Bank Account as his individual account or his individual cash deposits so as to establish that the relevant cash deposits are indeed belonging to individual Shri Surjit Singh in the absence of other verifiable proofs of appellant company, if any. Appellant's plea to treat the unexplained cash deposit as added by the Hon'ble CIT(A) as not attributable to appellant, is not acceptable and accordingly, the appellant's claims are not maintainable and appeal is dismissed."*

5.1 From the aforesaid finding it is evident that it was in the knowledge of the learned CIT(A) that account in question was in individual capacity but he treated it to be of the assessee company. It is stated by the learned CIT(A) that before him the assessee had submitted the bank statement from 15.4.2013 to 28.4.2013. One of the objection of learned CIT(A) was that the assessee failed to submit complete bank statement for the entire period i.e. 1.1.2013 to 31.3.2014 so as to verify and reconcile any further transaction of cash deposit to the assessee company. Before Tribunal the assessee has filed a bank statement running from pages 22 to 25 of the paper book. That covers the period starting from 1.4.2013 to 31.3.2014 for the relevant financial year. I have perused the bank statement as filed by the assessee. Vide entry dated 29.4.2013 there is a transfer through RTGS. Undisputedly, the basis for making addition was that certain cash deposit was made in the bank account bank account no. 67170726788 maintained with State Bank of Travancore. This bank account is in the name of Shri Surjit Singh, Director of the assessee company. The assessee ought to have provided the complete bank statement to learned CIT(A) for verifying the transaction between the assessee and the account in question, therefore looking to the totality of the facts, I hereby set

aside the impugned assessment order and restore the matter to the file of the learned CIT(A) to decide the matter afresh, in accordance with law, of course, after affording reasonable opportunity of being heard to the parties.

6. The appeal of the assessee stands allowed for statistical purposes only.

Order pronounced in open court on 27<sup>th</sup> September, 2023.

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**