

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

BEFORE

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

ITA No. 2485/Del/2018
Asstt. Year: 2014-15

New Leaf Home P. Ltd. House No. 352, Sector-21 D, NIT Faridabad, Near Jiva Public School, Faridabad, Haryana, Pin : 121001 PAN AADCN7291C	Vs.	ITO, Ward-18(2) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri Salil Aggarwal, Sr. Advocate Shri Shailesh Gupta, Advocate, Shri Madhur Aggarwal, Advocate
Department by:	Ms. Anita Meena, Sr.DR
Date of Hearing:	04.09.2023
Date of pronouncement:	21.11.2023

ORDER

PER ASTHA CHANDRA, JM

The appeal filed by the assessee is directed against the order dated 01.02.2018 of the Ld. Commissioner of Income Tax (Appeals)-28, New Delhi (**"CIT(A)"**) pertaining to Assessment year (**"AY"**) 2014-15.

2. The assessee has raised the following grounds:-

- “1. That the learned Commissioner of Income Tax (Appeals) has grossly erred both in law and, on facts in sustaining an addition of a sum of Rs. 90, 26, 067/- on account of alleged unexplained money received from investors/ customers/ creditors under section 68 of the Act and the said addition was sustained on

mere assumptions, suppositions, conjectures, surmises and without bringing on record any material on record to establish that the money received as advance by assessee appellant was unexplained.

- 1.1 *That in doing so, the learned Commissioner of Income Tax (Appeals) has failed to appreciate the fact that the assessee appellant had duly furnished the addresses and confirmations of the respective prospective customers, which were arbitrarily disregarded by learned AO without conducting any enquiry or investigation, what so ever, and as such, the addition so made and sustained should have been deleted.*
- 1.2 *That the learned Commissioner of Income Tax (Appeals) while sustaining the instant addition, has proceeded to record findings against assessee appellant, on irrelevant and extraneous considerations and by disregarding the material evidence furnished by the appellant, therefore, the addition so sustained is wholly untenable either on facts or in law.*
- 1.2 *That the adverse findings recorded by the learned Commissioner of Income Tax (Appeals) are perverse and have been recorded with preconceived notions and without considering the submissions/evidences/material produced on record and hence such findings are vitiated and deserves to be deleted.*
- 1.3 *That the learned Commissioner of Income Tax (Appeals) has further erred in sustaining the addition without providing to the appellant, a fair, proper and meaningful opportunity of being heard, violating the principles of natural justice and thus such an order is vitiated both on facts and in law.*
2. *That the learned Commissioner of Income Tax (Appeals) has grossly erred both in law and, on facts in sustaining an addition of a sum of Rs. 16, 29,,743/- on account of alleged difference in cash withdrawal from Kotak Mahindra Bank and cash in hand as per books of accounts under section 68 of the Act and the said addition was sustained in disregard to the reconciliation/ submission filed by the assessee appellant, wherein, the assessee appellant had duly explained that there was no difference as regards to the cash withdrawals from bank accounts and cash in hand as per the books of accounts.*
- 2.1 *That the learned Commissioner of Income Tax (Appeals) while sustaining the instant addition, has proceeded to record findings against assessee - appellant, on irrelevant and extraneous considerations and by disregarding the material evidence furnished by the appellant, therefore, the addition so sustained is wholly untenable either on facts or in law.*

- 2.2 *That the adverse findings recorded by the learned Commissioner of Income Tax (Appeals) are perverse and have been recorded with preconceived notions and without considering the submissions/evidences/material produced on record and hence such findings are vitiated and deserves to be deleted.*
- 2.3 *That the learned Commissioner of Income Tax (Appeals) has further erred in sustaining the addition without providing to the appellant, a fair, proper and meaningful opportunity of being heard, violating the principles of natural justice and thus such an order is vitiated both on facts and in law.*
- 3 *That the learned Commissioner of Income Tax (Appeals) has grossly erred both in law and, on facts in sustaining a disallowance of a sum of Rs. 4, 93, 176/- on account of travelling expenses paid to M/s Yadav Taxi Services.*
- 3.1 *That the learned Commissioner of Income Tax (Appeals) while sustaining the instant addition, has proceeded to record findings against assessee appellant, on irrelevant and extraneous considerations and by disregarding the material evidence furnished by the appellant, therefore, the addition so sustained is wholly untenable either on facts or in law.*
- 4 *That the learned Commissioner of Income Tax (Appeals) has grossly erred both in law and, on facts in sustaining a disallowance of a sum of Rs. 5, 100/- and 14, 400/- on account of membership fees and preliminary expenses.*

That the learned Commissioner of Income Tax (Appeals) while sustaining the instant addition, has proceeded to record findings against assessee appellant, on irrelevant and extraneous considerations and by disregarding the material evidence furnished by the appellant, therefore, the addition so sustained is wholly untenable either on facts or in law.”

3. Briefly stated, the assessee company is engaged in the business of earning commission on sale and purchase of property. For AY 2014-15, it e-filed its return declaring income of Rs. 16,995/- on 28.09.2014. The case was selected for scrutiny. Statutory notices under section 143(2)/142(1) were served and responded to. During the course of assessment proceedings the Ld. Assessing Officer (“AO”) found that the assessee failed to prove the nature and source of investments made during the year totalling to Rs. 90,26,067/-; could not justify the source of Rs. 16,29,743/- being the difference between self withdrawal from Kotak Mahindra Bank and cash in

hand as per the balance sheet; violated the provisions of section 40(a)(ia) in making payment of Rs. 4,93,176/- to Yadav Taxi Service and incurred inadmissible membership and preliminary expenses of Rs. 5,12,676/-. He therefore completed the assessment on total income of Rs. 1,11,85,480/- including therein the aforesaid additions/disallowances on 28.11.2016 under section 143(3) of the Income Tax Act, 1961 **(the “Act”)**.

4. Aggrieved, the assessee appealed before the Ld. CIT(A). On the issue of addition of Rs. 90,26,067/- under section 68 of the Act, the assessee made submission which the Ld. CIT(A) recorded in para 3.1 of his order. The submission of the assessee was not acceptable to the Ld. CIT(A) who confirmed the addition by observing in paras 3.2 to 3.7 as under:-

“3.2 I have considered the facts of the issue basis of addition made by AO and submission of appellant. As discussed by AO in the assessment order, he requested several times to furnish the relevant details to establish the Identity, creditworthiness of loan creditors and genuineness of transactions and also to produce the creditors along with their books of account to examine the nature and source of funds received by it. But, neither the relevant details, except the copies of ledger accounts and PAN Cards, were filed nor the creditors could be produced by appellant during the assessment proceedings. Similarly, the creditworthiness of these creditors also could not be proved as, no details were filed by appellant in this regard during the assessment proceedings. The genuineness of transactions also could not be proved by appellant as bank statements were not produced before AO despite of several requests made by him to examine the flow of the funds in the accounts of the creditors. It has to mentioned here that the assessed company is a private limited company and in the case of such companies which are mostly family controlled closely held companies and they raise their funds from their family members, relatives and friends and in these companies since funds are received from the close knit circles who are mostly known to the companies/promoters, the onus as cast upon u/s 68 of. the Act is very heavy to prove the capacity of the share holders or lenders and genuineness of the transactions. Since such companies are closely held companies, unlike of public limited companies, and share capital or funds in the form of loans are mostly raised from family, close relatives and friends, the assessee is expected to know the loans providers and the burden is very heavy on the assessee to satisfy cumulatively the ingredients of section 68 of the Act as to identify and establish the creditworthiness and genuineness of the transactions to the satisfaction of the AO, otherwise he shall be free to proceed against the assessee company and make addition u/s 68 of the Act as unexplained cash credit. In the case of appellant also, being a private

limited company, heavy onus is on it to establish the identity, creditworthiness and genuineness of transactions in the cases of its creditors.

3.3 This onus has now been made heavier by the Legislation from A.Y. 2013-14, as to check this pernicious practice of conversion of unaccounted money through masquerade of Investment in the share capital of companies, the provisions of section 68 have been further strengthened by inserting the Proviso w.e.f 01.04.2013, applicable from A.Y. 2013-14, of casting a higher onus on such companies requiring them to prove the source of money in the hands of such share holders or persons making payments towards issue of shares before such sum is accepted as genuine credit and if the company fails to discharge the additional onus, the sum shall be treated as income of the company and added to its income.

3.4 Now it has to be seen as to what extent, appellant has been able to satisfy all three conditions, I.e., identity of creditor, creditworthiness and genuineness of transactions in its case. So far as the word identity is concerned, Hon'ble jurisdictional High Court in the case N.R. Portfolio Pvt. Ltd., (2014] 2 ITR-OL 68, has defined that 'the identification of the person would include the place of work, the staff, the fact that it was actually carrying on business and recognition of the said company in the eyes of public. Merely producing PAN or assessment particulars did not establish the Identity of the person. The actual and the true identity of the person or a company was the business undertaken by them. In the case of appellant, It has failed to establish the identity of creditor companies. Despite of asking by AO to produce the creditors, it failed to produce them. The aforesaid view is supported in the other decisions also of Hon'ble Jurisdictional High Court. Hon'ble jurisdictional High Court in the case CIT vs. Youth Construction Pvt. Ltd., 357 ITR 197 and CIT vs. Nipun Builders and Developers Pvt. Ltd., 350 ITR 407, has held that onus is on assessee to prove the identity of share applicants, failing which it has to be concluded that the assessee company has Introduced its own money through non-existing companies using the banking channels in the shape of share application money. In view of above, It is clear that the appellant has failed to establish the identity of creditors in its case. The other evidence given by appellant to establish the identity have no relevance here as the physical presence of the creditor companies is not proved. Thus, the first condition as stipulated in section 68 of the Act is not satisfied.

3.5 As regards the other conditions, i.e., creditworthiness and genuineness, Hon'ble jurisdictional High Court in the case N.R. Portfolio Pvt. Ltd. (supra) has held that The bank accounts do not reflect the creditworthiness or even genuineness of the transaction. The beneficiaries, including the respondent-assessee, did not give any share dividend or interest to the sald entry operators/subscribers. The profit motive is normal In case of investment, was entirely absent. In the present case, no profit or dividend was declared on the shares. Any person, who would invest money or give loan would certainly seek return or income as consideration. These facts are not adverted to and as noticed below are true and correct. They are undoubtedly relevant and

material facts for ascertaining the creditworthiness and the genuineness of the transactions. It is further held by Hon'ble Court that 'mere production of incorporation details, PANs or the fact that third persons or company had filed income tax details in case of a private limited company may not be sufficient when surrounding and attending facts predicate a cover up. These facts indicate and reflect proper paper work or documentation but genuineness, creditworthiness, are deeper and obtrusive. Companies no doubt are artificial or juristic person but they are soulless and are dependent upon the Individuals behind them to run them and manage them. It is the persons behind the company who take the decision, control and manage them. In the case of appellant company, though the soulless Juristic entities are existent on paper but the appellant failed to produce them to establish their physical existence. Since the creditors are non- existing, their creditworthiness is also not established. Moreover, as discussed by AO, the creditors have no source of funds with them for the purpose of Introducing the same to the appellant company to prove their creditworthiness. Similarly, the genuineness of transactions in the case of appellant has also not been proved for the reason that the appellant failed to give the complete details of transactions with the creditors. Thus, the onus cast upon by the provisions of the 68 of the Act has not been discharged by appellant to treat the cash credits as genuine.

3.6 Thus, the appellant company failed to discharge the initial burden of establishment the identity, creditworthiness and genuineness of transaction in the case of its applicants/creditors, leave alone the source of funds of those creditor companies. In view of above discussion, it can be seen that none of the conditions as per section 68 of the Act are satisfied in the case of appellant company, therefore, the addition on account of unexplained share application money was liable to be made in the hands of the appellant company.

3.7 In such situation, the appellant has failed to discharge the onus cast upon it by the substantive provisions of section 68 of the Act or its proviso. Thus the appellant has failed on both the counts. In view of this, I hold that the AO was justified in treating the aforesaid sum of Rs. 90,26,067/- as unexplained cash credits in the hands of appellant. I therefore confirm the addition made by AO and dismiss the ground taken by appellant.”

4.1 On the issue of addition of Rs. 16,29,743/- as unexplained cash in hand, the submission of the assessee is recorded in para 4.1 by the Ld. CIT(A) who after rejecting the explanation of the assessee upheld the addition by observing in para 4.2 of his appellate order reproduced below:

“4.2 I have considered the facts of the issue, basis of addition made by AO and submissions of appellant. As can be seen from the assessment order, the AO has given a chart of self withdrawals of cash amounts by appellant

company and arrived at the aggregate amount of Rs. 99,57,120/- against the total cash in hand of Rs. 115,86,863/- shown by appellant in the balance sheet. However, during the appellate proceedings, appellant tried to explain the source of cash in hand through withdrawals made by it from the bank. The appellant has given the details of such withdrawals, as per Annexure-D of its submissions, as under :-

Details of cash withdrawal from bank a/c Kotak Mahindra Bank Ltd in the financial year 2013-14-

Date	Amount	Particulars
23.04.2013	700000	Cash withdrawal from bank a/c
27.04.2013	500000	Cash withdrawal from bank a/c
07.05.2013	900000	Cash withdrawal from bank a/c
10.05.2013	800000	Cash withdrawal from bank a/c
13.05.2013	900000	Cash withdrawal from bank a/c
14.05.2013	800000	Cash withdrawal from bank a/c
15.05.2013	900000	Cash withdrawal from bank a/c
20.05.2013	900000	Cash withdrawal from bank a/c
22.05.2013	500000	Cash withdrawal from bank a/c
06.06.2013	800000	Cash withdrawal from bank a/c
20.06.2013	500000	Cash withdrawal from bank a/c
25.06.2013	900000	Cash withdrawal from bank a/c
08.07.2013	300000	Cash withdrawal from bank a/c
09.07.2013	500000	Cash withdrawal from bank a/c
10.07.2013	800000	Cash withdrawal from bank a/c
06.08.2013	550000	Cash withdrawal from bank a/c
04.10.2013	300000	Cash withdrawal from bank a/c
Gross total	11550000	

In view of aforesaid chart, appellant has claimed that the appellant had sufficient cash withdrawals to show them as cash in hand in its balance sheet. However, the details given by appellant has many discrepancies. In many cases, the figures shown in the chart of AO and appellant do not match each other. Moreover, at least three cash withdrawals which do not find place in the chart of AO, but claimed by appellant to explain the cash in hand, have

been made by the person other than the appellant. For example, the cash withdrawals of Rs. 8,00,000/-, Rs. 8,00,000/- and Rs. 5,50,000/- on 06.06.2013, 10.07.2013 & 06.08.2013 respectively have been made by the persons namely Shri Ramesh Chand Saxena (first withdrawal) and Kuldeep Kumar (remaining two withdrawals). There are many other entries also of the source of cash in hand through withdrawals made by it from the bank The appellant has given the details of such withdrawals, as per Annexure-D of its submissions, as under

Details of cash withdrawal from bank arc Ketas Mahindra Bank Ltd. in the financial year 2013-14:-

Date	Amount	Particulars
23.04.2013	700000	Cash withdrawal from bank a/c
27.04.2013	500000	Cash withdrawal from bank a/c
07.05.2013	900000	Cash withdrawal from bank a/c
10.05.2013	800000	Cash withdrawal from bank a/c
13.05.2013	900000	Cash withdrawal from bank a/c
14.05.2013	800000	Cash withdrawal from bank a/c
15.05.2013	900000	Cash withdrawal from bank a/c
20.05.2013	900000	Cash withdrawal from bank a/c
22.05.2013	500000	Cash withdrawal from bank a/c
06.06.2013	800000	Cash withdrawal from bank a/c
20.06.2013	500000	Cash withdrawal from bank a/c
25.06.2013	900000	Cash withdrawal from bank a/c
08.07.2013	300000	Cash withdrawal from bank a/c
09.07.2013	500000	Cash withdrawal from bank a/c
10.07.2013	800000	Cash withdrawal from bank a/c
06.08.2013	550000	Cash withdrawal from bank a/c
04.10.2013	300000	Cash withdrawal from bank a/c
Gross total	11550000	

In view of aforesaid chart, appellant has claimed that the appellant had sufficient cash withdrawals to show them as cash in hand in its balance

sheet. However, the details given by appellant has many discrepancies. In many cases, the figures shown in the chart of AO and appellant do not match each other. Moreover, at least three cash withdrawals which do not find place in the chart of AO, but claimed by appellant to explain the cash in hand, have been made by the person other than the appellant. For example, the cash withdrawals of Rs. 8,00,000/-, Rs. 8,00,000/- and Rs. 5,50,000/- on 06.06.2013, 10.07.2013 & 06.08.2013 respectively have been made by the persons namely Shri Ramesh Chand Saxena (first withdrawal) and Kuldeep Kumar (remaining two withdrawals). There are many other entries also of cash withdrawal wherein cash is withdrawn by different persons and the cash amounts have not been taken into account to explain the cash balance. Thus, it is clear that the appellant has failed to satisfactorily explain the source of cash amounts as shown in the balance sheet as cash in hand. In view of this, I uphold the addition made by AO and dismiss the ground taken by the appellant.”

4.2 The Ld. CIT(A) discussed the disallowance of Rs. 4,93,176/- under section 40(a)(ia) and disallowance of Rs. 5100/- and Rs. 14,400/- aggregating to Rs. 5,12,676/- together in para 5 and submission of the assessee before him in para 5.1. He recorded his findings in para 5.2 upholding the above said disallowances as under:-

“5.2 I have considered the facts of issue and found that AO was justified in making the aforesaid disallowances. As it is clear from the facts that the appellant was liable for deduction of tax at source as per provisions of section 194C of IT Act on the payment of Rs. 4,93,176/- made to Yadav Taxi Services for the purpose of hiring the taxies and getting other services. The appellant has failed to give any worthwhile explanation for non-deduction of tax at source on the payments made to Yadav Taxi Services. In view of this, AO was justified in Invoking the provisions of section 40(a)(la) of IT Act and disallowing the expenses. Similarly, in respect of expenses on account of membership fee and preliminary expenses, even during appellate proceedings, appellant failed to give any justification supported with any evidence to justified claims that the said expenses are genuine for business purposes. In view of this, I uphold the disallowances made by AO and dismiss the grounds taken by the appellant.”

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

6. Ground No. 4 and 4.1 has not been pressed. It is therefore dismissed as not pressed.

7. The remaining grounds are adjudicated herein below:

8. Vide application dated 10.10.2022 the assessee sought permission for admission of additional evidence under Rule 29 of ITAT Rules, 1963 which is reproduced below:-

10 October 2022

Before,
Hon'ble Income Tax Appellate Tribunal,
Delhi Bench "E"
New Delhi

In the matter of Leaf Homes Pvt. Ltd.

ITA Nos. 2485/Del/2018

Assessment year: 2014-15

Subject: PERMISSION FOR ADMISSION OF ADDITIONAL EVIDENCE UNDER RULE 29 OF ITAT RULES 1063.

Hon'ble Sir(s),

1. *The appellant named above seeks the permission of Hon'ble Bench to place on record evidences in support of it grounds of appeals so raised in the memo of appeal, which are being filed now as the assessee company's name was struck off from ROC records and also the Revenue initiated prosecution proceedings against the directors for non-payment of taxes, as such, the assessee - appellant was not able to file the aforesaid evidences due to the aforesaid reasons, the following evidences are being filed and relied now:*
 - i. *Copy of order of NCLT dated 02.06.2022 in the case of assessee appellant **(Annexure - A)**.*
 - ii. *Copy of chart in support of ground nos. 1 to 1.3 depicting that most of the customers from whom advances were received in the impugned assessment year have been paid back **(Annexure - B)**.*
 - iii. *Copy of confirmation of director in support of ground nos. 2 to 2.3. showing that the cash withdrawal was made on behalf of the assessee company **(Annexure - C)**.*
 - iv. *Copy of notice from department and reply furnished in support of ground nos. 3 to 3.1, in order to subsequently and as such, there is no*

non-compliance left on the part of Substantiate assessee company (Annexure-D).

3. *It is thus, most respectfully submitted that the aforesaid additional evidences be admitted, as the same goes to the root of the matter and is of paramount importance for deciding the captioned appeals. Reference is also being made to the judgment of Hon'ble High Coned of Calcutta in the case of Sanjay Kumar Modi vs DIT reported in 278 ITR 374, wherein, it has been held that "It has now become an elementary principle of law that the **subsequent development** having nexus to the original cause of action can be brought in the present proceeding to cut short the litigation and to meet the ends of justice."*
- 4 *It is prayed accordingly.*

*Yours sincerely,
For M/s New Leaf Homes Pvt. Ltd.*

Sd/-

*(Ghanshyam Saini)
Director*

9. After hearing the Ld. Representative of the parties, we have admitted the additional evidence following the decision of Hon'ble Calcutta High Court in Sanjay Kumar Modi's case (supra).

10. Ground No. 1 to 1.3 relate to sustenance of addition of Rs. 90,26,067/- by the Ld. CIT(A) on account of unexplained investment under section 68 of the Act. The Ld. AR submitted that the sum represented the business advances given to the assessee by the investors / customers / creditors. During assessment proceedings addresses and confirmations of the prospective customers were duly furnished. However, the Ld. AO made the impugned addition without conducting any enquiry or investigation. The assessee was not afforded fair, proper and meaningful opportunity of being heard violating the principles of natural justice. The Ld. AR further submitted that the Ld. CIT(A) erred in recognizing that these were not loans but business advances received by the assessee during the course of carrying on its business. The additional evidence filed before us contains

copy of a chart (Annexure-B) which depicts that most of the customers from whom advances were received during the year have been paid back.

11. The Ld. Sr. DR supported the order of the Ld. CIT(A). She submitted that addition under section 68 of the Act is justified as the assessee failed to prove the credit-worthiness /genuineness of the transaction despite several opportunities given.

12. We have considered the submission of the parties and perused the records. In our opinion it would be just, fair and in the interest of justice to send the matter back to the Ld. AO to examine the additional evidence and make necessary investigation and verification thereof and decide the issue afresh in the light of his findings as a result of such verification / investigation. He shall, of course provide adequate opportunity of being heard to the assessee. We order accordingly.

13. Ground No. 2 to 2.3 relate to sustenance of addition of Rs. 16,29,743/- on account of difference in cash withdrawal from Kotak Mahindra Bank and cash in hand as per books of account under section 68 of the Act. The Ld. AR submitted that the factum of cash withdrawal from Kotak Mahindra Bank has not been disputed by the Ld. CIT(A). The only objection of the Ld. CIT(A) is that withdrawals are not made by the assessee. Three persons have made the withdrawals from the Bank and not the assessee. The Ld. AR submitted that the said three persons are employees of the assessee company who withdrew the money from the bank on behalf of the assessee company. The Ld. CIT(A) / AO could have examined them to ascertain the veracity of assessee's explanation but this has not been done. Copy of confirmation of the Director of the company has been placed before us by way of additional evidence (Annexure-C) certifying that a cheque bearing No. 1199 dated 6.6.2013 was issued by him to Mr. Ramesh Chandra Saxena on behalf of the assessee company. He withdrew the cash from the bank and the cash was handed over to him (Director) of the company. Likewise cheques bearing No. 1295 dated 10.7.2013 and cheque

No. 1352 dated 6.8.2013 were handed over to Mr. Kuldeep Kumar who withdrew the cash from the bank and cash was handed over to the Director of the assessee company. It is submitted that in view of the reconciliation/submission filed by the assessee before the Ld. AO/CIT(A) addition is not justified.

14. The Ld. Sr. DR relied on the order of the Ld. CIT(A). She submitted that cash book is not maintained by the assessee. In rebuttal, the Ld. AR pointed out that cash book is placed at pages 21-56 of the Paper Book which was before the Ld. AO/CIT(A). It is submitted that the assessee has maintained books of account which are audited. The Ld. AO has himself admitted in opening para of his order that ITR is accompanied by balance sheet, profit and loss account and tax audit report. Cash withdrawn by the persons are duly reflected in the cash book.

15. We have considered the submission of the parties and perused the records. We are of the opinion that it would be judiciously expedient to send back the matter to the Ld. AO for necessary verification and decision afresh in the light of his verification. We, therefore restore the matter to the file of the Ld. AO to decide it afresh after allowing adequate opportunity of being heard to the assessee. We order accordingly.

16. Ground No. 3 and 3.1 relate to sustenance of disallowance of Rs. 4,93,176/- by the Ld. AO on account of travelling expenses paid to M/s. Yadav Taxi Services. The Ld. AR submitted that subsequently the TDS has been deposited and therefore there is no non-compliance on the part of the assessee company. In support evidence is placed before us vide Annexure – D of the additional evidence.

17. Ld. Sr. DR urged that the issue may be sent back to Ld. AO for verification/examination.

18. We agree with the submission of the Ld. Sr. DR and direct the Ld. AO to verify the contention of the assessee and take appropriate view in

accordance with law after allowing the opportunity of hearing to the assessee.

19. In the result, the appeal is treated as partly allowed for statistical purposes.

Order pronounced in the open court on 21st November, 2023.

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

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

Dated: 21/11/2023
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	