

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 687/DEL/2017**  
**[Assessment Year: 2008-09]**

Suresh Chand Gupta, 295, Railway Road, Bazaria, Ghaziabad. PAN- AKEPG 5569 L	<u>Vs</u>	Income-tax Officer, Ward-2(3), Ghaziabad
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	<b>Shri Deepak Upadhyay, CA</b>	
<b>Respondent by</b>	<b>Shri Sanjay Kumar, Sr. DR</b>	
<b>Date of hearing</b>	<b>22.08.2024</b>	
<b>Date of pronouncement</b>	29.08.2024	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), Ghaziabad, dated 30.11.2016, pertaining to the assessment year 2008-09. The assessee has raised following revised grounds of appeal:

- “1. The order passed by ld. AO under section 143(3)/147 is bad in law.
2. That both in the law and the facts of the case, Ld. A.O. has erred in treating cash deposits amounting to Rs. 10,41,666/- as unexplained cash credit u/s 68 of the IT Act, 1961.

3. *That Id. AO is erred in not considering the facts, circumstance and materials on records and passed assessment order with pre-conceive notion to made addition.*

4. *That appellant craves to add, alter or amend any ground of appeal during or time of hearing of appeal.”*

2. Facts, in brief, are that for A.Y. 2008-09 the case of the assessee was reopened on the basis of information received through non-pan air that assessee had cash deposits of Rs. 10,41,666/- in his bank account. In response to statutory notices issued by the Assessing Officer the assessee's explanation was that assessee had suffered losses in business of share broker and to repay the liability his mother and sister had given him Rs. 4,00,000/- and Rs. 2,00,000/- respectively in cash. Summary of cash deposited and withdrawal was also furnished before AO. Rejecting assessee's explanation the completed the assessment u/s 143(3)/147 of the Act at Rs. 11,51,546/- by adding cash deposits of Rs. 10,41,66/- as unexplained cash credit to the returned income of Rs. 1,09,790/-. Aggrieved against it assessee preferred appeal before learned CIT(Appeals) who dismissed the appeal by affirming the action of AO. Aggrieved against it the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee submitted that during assessment proceedings itself the assessee had filed summary of cash deposits and withdrawal during F.Y. 2007-08 relevant to the assessment year 2008-09 and had explained

the source of cash deposits. However, without verifying the veracity of assessee's submissions the authorities below made and sustained the impugned addition. He prayed that orders of authorities below may be set aside and impugned addition made by the assessing authority may be deleted.

4. On the other hand, learned DR supported the orders of authorities below.

5. I have heard rival submissions and perused the material available on record. The explanation of the assessee before the assessing authority was that assessee had suffered losses while working as share broker and to repay the liability his mother and sister had given him Rs. 4,00,000/- and Rs. 2,00,000/- respectively in cash which was deposited by him in his bank account. A summary of cash deposits and withdrawal was also furnished before AO. The AO rejected the explanation on the ground that donors were not having PAN or bank a/c. In appeal the learned CIT(Appeals) affirmed the action of AO without affording adequate opportunity to the assessee to adduce supporting material in support of his case. Considering the totality of facts of the present case, in order to verify the veracity of assessee's claim and to sub serve the interests of natural justice I hereby set aside the orders of authorities below and restore the matter back to the file of Assessing Officer to make the assessment de novo after verifying the veracity of assessee's claim, of

course, after affording adequate opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

6. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in open court on 29<sup>th</sup> August, 2024.

**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**