

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
DELHI BENCH 'C' NEW DELHI**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND**

SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 1722/DEL/2020 (A.Y. 2016-17)

JP Rice & foods Pvt. Ltd. 2717, FF, GaliPattey, Naya Bazar, New Delhi PAN: AACCI550D	Vs.	ITO Ward-13(1) New Delhi
Appellant		Respondent
Assessee by	Sh. Manu Gawri, CA	
Revenue by	Sh. Om Prakash, Sr. DR	
Date of Hearing	09/04/2025	
Date of Pronouncement	17/04/2025	

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)-5, New Delhi [‘Ld. CIT(A) ’ for short] dated 31/10/2019 pertaining to Assessment Year 2016-17.

2. The grounds of appeal are as under:-

“1. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming the addition of Rs 12 lakh made by the AO as received on account of share capital from Jinender Kumar Jain treating the same as income u/s 68 even when Jinender Kumar Jain was assessed to tax as Proprietor of Mangalm Trading Company and has withdrawn this amount from his Proprietary firm which was having sufficient capital.

2. *On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming the addition of Rs 4 lakh as received on account of share capital from Smt Poonam Jain as income u/s 68 even when Poonam Jain has withdrawn this amount of Rs 4 lakh from the Proprietary concern of her husband which was assessed to tax and which has also declared the same in its balance sheet.*

3. *On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming the addition of Rs 24 lakh as received on account of share capital from Shri Manish Jain even when such amount has been withdrawn by Manish Jain from his Proprietary firm M/s Arihant Overseas and such amount was duly reflected also in the balance sheet of Manish Jain.*

4. *On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming the addition of Rs 22 lakh as received on account of share capital from Smt. Prabha Jain even when such amount has been withdrawn by Smt. Prabha Jain from her Proprietary firm M/s Shiva Textile.*

5. *On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming the addition of Rs 1,64,91,496/- being 50% of the creditors amounting to Rs 3,29,82,993/- even when confirmations were filed.*

6. *On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming an addition of Rs 1,64,91,496/- on the ground that the confirmations of creditors filed doesn't bear PAN and Stamp of the party who has signed the confirmation.*

7. *On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming an addition of Rs 1,64,91,496/- completely wholly solely on the basis of estimate and ideas without any basis.*

8. *On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming an addition of Rs 1,64,91,496/- without finding any incorrectness or in genuineness in the confirmations filed.*

9. *On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in confirming an addition of Rs*

1,64,91,496/- even by ignoring the legal proceedings against same creditors and also ignoring the reply directly received from the creditors.

10. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in dismissing the appeal of the assessee.”

3. There is a delay of 281 days in filing the present Appeal. The Assessee filed an application for condoning the delay contending that due to Covid-19 Situations, the present appeal could not be filed on time. For the reason stated in the application for condonation of delay, the delay of 281 days is hereby condoned.

4. Brief facts of the case are that, the Assessee filed return of income for Assessment Year 2016-17 declaring income at Rs. 21,60,280/-. An assessment order came to be passed on 19/12/2018 by making additions of Rs. 62,00,000/- u/s 68 of the Income Tax Act, 1961 ('Act for short) and Rs. 1,64,91,496/- being made as the genuineness of the creditors were not proved. Aggrieved by the assessment order, the Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 31/10/2019, confirmed the additions made in the assessment order. Aggrieved by the order of the Ld. CIT(A) dated 31/10/2019, the Assessee preferred the present Appeal on the grounds mentioned above.

5. The Ld. Counsel for the Assessee submitted that the order impugned has been passed without granting the opportunity to present the case and the adjournment which was sought by the Ld. Assessee's Representative was denied by the Ld. CIT(A) and the order impugned has been passed ex-parte in violation of principals of natural justice. The Ld. Counsel also submitted before us that the Assessee wanted to produce additional documents which will go into the root of the matter and such opportunity was devoid by the Ld. CIT(A). Thus, sought for allowing the Appeal.

6. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authorities, sought for dismissal of the Appeal.

7. We have heard both the parties and perused the material available on record. It is the case of the Assessee that the proper opportunity has not been provided to the Assessee during the appellate proceedings to put forth its case. It is seen from the order impugned, the Ld. CIT(A) has passed the order without granting the adjournment as requested by the Ld. Assessee's Representative. Considering the fact that all the ground of Appeal of the Assessee have not been decided in detail by the Ld. CIT(A) and with an intention to render substantial justice, we deem it

fit to restore the matter to the file of Ld. CIT(A) with a liberty to the Assessee to produce all documents in support of grounds of Appeal and the Ld. CIT(A) is directed to consider the documents produced by the Assessee and decide the Appeal in accordance with law after providing opportunity of being heard to the Assessee. Ordered accordingly.

8. In the result, the appeal of the Assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 17th April, 2025

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER
Date:- 17.04.2025
R.N, Sr.P.S*

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

