

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI
BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.2761/Del/2013
(ASSESSMENT YEAR 2007-08)

Sh. Satpal Singh, C/o Sh. P.K. Dublish, Advocate, 205/5, Thapar Nagar, Meerut. PAN-BLLPS5466B	Vs.	Income Tax Officer, Ward-2 (3), Meerut.
(Appellant)		(Respondent)
Appellant by	None	
Respondent by	Ms. Harpreet Kaur Hansra, Sr. DR	

Date of Hearing	16.12.2025
Date of Pronouncement	29.12.2025

ORDER

PER YOGESH KUMAR U.S., JM:

This appeal is filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals), Meerut ["Ld.CIT(A)", for short], dated 16.12.2010 pertaining to Assessment Year 2007-08.

2. Brief facts of the case are that the assessment order came to be passed on 29.12.2009 u/s 1243(3) of the Act by making the following additions:

- i. Rs.1,49,761/- on account of gross profit on suppressed sales.
- ii. Rs.1,16,750/- on account of unexplained capital.
- iii. Rs.16,00,000/- on account of unexplained income.
- iv. Rs.36,87,216/- towards unexplained debtors.

3. Aggrieved by the assessment order dated 29.12.2009, Assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 16.10.2010 dismissed the appeal of the assessee. As against the order of the Ld. CIT(A) dated 16.10.2010, Assessee preferred the present appeal.

4. In earlier occasion, the Co-ordinate Bench of the Tribunal vide order dated 16.09.2015, dismissed the appeal of the assessee. Aggrieved by the final order dated 16.09.2015, Assessee preferred a Misc. Application No.140/Del/2018. The Co-ordinate Bench of the Tribunal recalled the order dated 16.09.2015, restored the Appeal and fixed the Appeal for hearing on 15.07.2019.

5. As could be seen from the order sheet, right from 15.07.2019 till this date neither the assessee nor his representative appeared before the Tribunal and argued the appeal. The assessee or the Assessee's Representative made any effort to argue the present Appeal. Considering the above facts and circumstances, we deem it fit to decide the appeal after hearing the Ld. DR.

6. The Ld. DR vehemently submitted that the assessment order came to be passed u/s 143(3) of the Act, wherein the Ld. AO provided ample opportunities to the assessee and the assessee was duly represented by his Advocate and after considering the submissions and the documents produced in support of the claim of the assessee, the assessment order has been passed. Further submitted that during the appellate proceedings except seeking for adjournment on behalf of the assessee, no arguments have been advanced.

Even before the Tribunal after recalling the appeal, the assessee remained absent, therefore, Ld. Departmental Representative sought for dismissal of the present appeal.

7. We have heard the DR and perused the materials available on record. The AO framed the assessment order in following manners.

“During the course of assessment proceedings, it was found that the assessee has started its business activities of trading of milk in the name and style of M/s Krishna Dairy, the assessee has purchased the milk from the villagers/ local milk men. And thereafter sold to entire milk to M/s Ved Ram & Sons and Ma VRS Foods Limited. To verify the sales of the assessee copy of account of the assessee have been called for u/s 133(6) of the IT ALL. On examination of the copy of accounts received from the above concerned the assessee has made the sales of milk as under:-

<i>S. No.</i>	<i>Name of the party</i>	<i>Amount of Sales</i>
<i>1</i>	<i>M/s Ved Ram & Sons</i>	<i>4,68,79,755/-</i>
<i>2</i>	<i>M/s VRS Foods Limited</i>	<i>85,90,241/-</i>
	<i>Total</i>	<i>5,54,69,996</i>

As per the audited profit and loss account the assessee has shown its sales at Rs.5,16,97,672. Thus the assessee has suppressed its sales by Rs. 37,72,324/- The O.P. of the assessee were @3.97% tie. G.P/sales i.e., 20,52,342/5,16,57,672/-), The O.P. of the assessee against the suppressed sales comes to Rs. 1,49,761/- (i.e.3.97% of 37,72,324).

Therefore, vide notice u/s 142(1) dated 1.12.2009 the assessee was asked to show cause as to why the G.P. un suppressed sales amounting to Rs. 37,72,324/-, which comes to Rs. 1,49,761/- may not be added to your income The date of compliance was fixed for 18.12.2009. On the said date, Sh Deepak Mathur, Advocate, counsel of the assessee attended but did not make any compliance. On his request case adjourned to 21.12.2009. On the said date, Sh. Deepak Mathur, Advocate, Counsel of the assessee atended the date but did not make any compliance again on his request case adjourned to 24.12.2009. On the said date, Sh. Deepak Mathur, Advocate, counsel of the assessee attended and furnish name & addresses of the sundry creditors only. On his request the case adjourned to 29.12.2009 On the said date Sh. Deepak Mathur, Advocate, counsel of the assessee attended and submit the confirmation of sundry creditors only. In spite of affording a number of opportunities, the assessee could not furnish any reason for not disclosing the sales properly, which prove that the assessee has nothing to say. Therefore, the G.P. on the suppressed sales, which comes to Rs. 1,49,761/- is added to be income of the assessee

(Addition Rs. 1,49,761/-)

The assessee has invested a capital of Rs. 16,00,000/- for turnover of Rs.5,16,57,672/-. Thus, the capital invested by the assessee to earn suppressed sales of Rs. 37,72,324/- is worked out as under-Rs. $16,00,000/5,16,97,672 \times 37,72,324 = 1,16,750/-$

This capital has been invested by the assessee from the undisclosed sources to earn the suppressed sales. Therefore, vide notice u/s 142(1) dated 11.12.2009 the assessee was asked to show cause as to why the capital of Rs. 1,16,750/- invested by you to earn suppressed sales amounting to Rs.37,72,324/- not be added to your income. The date of compliance was fixed for 18.12.2009. On he said de Sh. Deepak Mathur, Advocate, counsel of the assessee stended but did not make any compliance. On his request case adjourned to 21.12.2009. On the said date. Sh. Deepak Mathur, Advocate, Counsel of the assessee attended the date but did not make any compliance again on his request case adjourned to 24.12.2009. On the said date, Sh. Deepak Mathur, Advocate, counsel of the assessee attended and furnish name & addresses of the sundry creditors only. On his request the case adjourned to 29.12.2009 On the said date, Sh. Deepak Mathur, Advocate, counsel of the assessee attended, and submit the confirmation of sundry creditors only. In spite of affording a number of opportunities, the assessee could not furnish the source of capital of Rs. 1,16,750/- invested to earn suppressed sales, which prove that the assessee has nothing to say. Therefore, in view of the above, a sum of Rs 1.16,750/- as undisclosed income is added to the income of the assessee.

(Addition Rs. 1,16,750/-)

Further, as per the balance sheet and capital account as on 31.03.2007, it was found that the assessee has introduced fresh capital at Rs. 16.00 lacs. Vide notice U/s 142(1) dated- 11.12.2009, the assessee was asked to furnish the evidence of source of capital introduced during the year under consideration. The date of compliance was fixed for 18.12.2009. On the said date, Sh. Deepak Mathur Advocate, counsel of the assessee attended but did not make any compliance. On his request case adjourned to 21.12.2009. On the said date too, Sh. Deepak Mathur, Advocate, Counsel of the assessee attended the date but did not make any compliance again on his request case lastly adjourned to 24.12.2009. On the said date, Sh. Deepak Mathur, Advocate, counsel of the assessee attended and he verbally submitted that a sum of Rs. 16.00 lacs was received through cheque from M/s VRS Foods Ltd. and the same has been deposited to the bank account of the assessee, On examination of copy of account received from M/s VRS Foods Ltd. it was found that M/s VRS Foods Ltd. has made payment a sum of Rs. 16.00 lacs on 20.09.2006 against the purchases of Rs. 19,98,577/-. These purchases have been made by M/s VRS Foods Ltd. on 20.09.2006. Thus, it is clear from the above that Rs. 16.00 lacs was received by the assessee against the sale of milk from M/s VRS Foods Ltd, which is the part of sale. Therefore, in view of the above, it is clear that the capital of Rs. 16.00 lacs has been introduced by the assessee from *লাবস্হাঅর্জি* unexplained income which has not been offered by him for taxation. Hence, the same is added to the home of the assessee.

(Addition Rs. 16,00,000/-)

Further, on going through the statement of sales of the assessee called for from M/s VRS Foods Ltd. ar. Ms. Ved Ram & Sons, it was found that there were the credit balances as on 31.03.2007 of the assess against the above mentioned concerns as under-

1. M/s VRS Foods Ltd. Rs. 8,15,189/-
 2. M/s Ved Ram & Sons Rs. 30,75,569/-
- Total Rs. 38,90,758/-**

Thus, as per the above details, the sundry debtors of the assessee were at Rs.38,90,758/-. While as per the audited balance sheet as on 31.03.2007 filed by the assessee during the course of assessment proceedings, it was found that the assessee has shown its debtors at Rs.2,03,542/- only. Therefore, in vie of the above the assessee has shown its debtors short by Rs.36,87,216/-. Therefore, vide order u/s 142(1) dated 11.12.2009 the assessee was asked to show cause as to why the debtors suppressed by you by Rs.38,90,758/- may not be added to your income. The date of compliance was fixed for 18.12.2009. On the said date Sh. Deepak Mathur, Advocate, counsel of the assessee attended but did not make any compliance. On his request case adjourned to 21.12.2009. On the said date, Sh. Deepak Mathur, Advocate, Counsel of the assessee attended the date but did not make any compliance again on his request case lastly adjourned to 24.12.2009. On the said date, Sh. Deepak Mathur, Advocate, counsel of the assessee attended and furnish name & addresses of the sundry creditors only. On his request the case lastly adjourned to 29.12.2009. On the said date, Sh. Deepak Mathur, Advocate, counsel of the assessee attended, and submit the confirmation of sundry creditors only. In spite of affording a number of opportunities, the assessee could not furnish any reason for disclosing its debtors by Rs.36, 87,216/-. Therefore, in view of above, the debtors amounting to Rs.36,87,216/- as suppressed by the assessee, is added to the income of the assessee.

(Addition Rs.36,87,216/-)

In view of the above the income of the assessee is computed as under:-

	Income shown as per return	Rs.1,37,472/-
	Addition as discussed above	
(i)	G.P. on suppressed sales	Rs.1,49,761/-
(ii)	Unexplained capital used for suppressed sales	Rs.1,16,750/-
(iii)	Unexplained source of capital introduction	Rs.16,00,000/-
(iv)	On account of suppressed debtors	Rs.36,87,216/-
	Total Income	Rs.56,91,199/-

Assessed net income at Rs.56,91,199/-. Charge interest as per law. Issue notice of demand and challan. Penalty proceedings U/s 271(1)(b) and 271(1)(c) have been initiated.”

8. During the appellate proceedings, the assessee failed to appear before the Ld. CIT(A) and the Ld. CIT(A) dismissed the appeal in following manner.

“5. I have gone through the grounds as well as the statement of facts filed with Form No.35. No worthwhile facts are found mentioned therein which would lead me to understand the grievance arising through the grounds of appeal. Even though, I am not required to give separate reasons for affirming the order of the AO as per the ratio of the judgment of the case of Anil Goel vs. CIT(Appeals) & Another [2008], 306 IT'R 212 (P&H), I have carefully gone through the assessment order of the AO. I find that the additions have been made with application of mind. The AO's order is, therefore, confirmed.”

9. As observed above, the assessee being a chronic defaulter who has not appeared before the Ld. CIT(A). Even after filing the appeal before the Tribunal, failed to appear and appeal has been once dismissed on 14.09.2015 which has been recalled Misc. Applications No.140/Del/2018 vide order dated 26.04.2019. Even after restoring the appeal, Assessee remained absent before the Tribunal by expressing our serious displeasure on the conduct of the assessee, as the AO as well as CIT(A) have made the additions/confirmed the addition on merits, in the absence of any contrary materials to contradict the findings and the conclusion of the lower authorities, we find no reason to interfere with the order of the Ld. CIT(A). Accordingly, the appeal of the assessee is dismissed.

Order pronounced in open Court on 29th December, 2025.

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Dated:29.12.2025

Pk/R.N Sr.PS.

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