

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.2528/Del/2010  
Assessment Year: 2005-06

ACIT, Circle-22(1), New Delhi	<b>Vs.</b>	Sh. Sanjeev Malhotra, 64, Hemkunt Colony, G.K.-1, New Delhi
<b>PAN: ABDPM9549C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Salil Kapoor, Adv. Sh. Sumit Lal Chandani, Adv. Ms. Somya Jain, Adv.
Department by	Ms. Monika Singh, CIT(DR)

Date of hearing	04.02.2026
Date of pronouncement	04.02.2026

**ORDER**

**PER SATBEER SINGH GODARA, JM**

This Revenue's appeal for assessment year 2005-06, arises against the Commissioner of Income Tax (Appeals)-XXIII, New Delhi's order dated 03.03.2010 passed in case no. 243/07-08, involving proceedings under section 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. It transpires during the course of hearing with the able assistance coming from both the parties that the Revenue is aggrieved against the learned CIT(A)'s lower appellate discussions/findings reversing the Assessing Officer's action making section 68 addition of Rs.38,34,32,103/- in the assessee's hands representing his sundry creditors written off allegedly as bogus ones. And that the learned CIT(A)'s impugned order dated 03.03.2010 has deleted the same in his lower appellate discussion that neither it was an instance attracting section 41(1) cessation of liability addition nor that of bogus sundry creditors; as the case may be, to decide the issue in the assessee's favour. The Revenue then filed its appeal before the tribunal wherein the earlier learned coordinate bench vide order dated 28.11.2011 decided the issue in the assessee's favour. The department thereafter filed its appeal ITA No.595/2012 before the hon'ble jurisdictional high court wherein their lordships have restored the same back to the tribunal vide order/judgment dated 08.07.2013; reading as under:

*"7. In the second letter dated 09.02.2010, the Assessing Officer had stated as under:-*

*"Pursuant to the directions, information was called for from the assessee for AY 2005-06 and 2004-05. The relevant assessment records were also examined. The list of Sundry Creditors for AY 2003-04 and AY 2004-05 have already been submitted for your*

*kind perusal vide this officer letter dated 21/1/2010 wherein it is also stated that further verification was needed.*

*Accordingly, in furtherance to the same, a letter has been written to the assessee on 04.02.2010 whereby certain details have been asked for. In the letter, inter-alia, reference have been made to the arguments taken by the assessee in the appeal. A copy of this letter is enclosed for your kind reference. The remand report can be submitted after the due verification, and it is prayed that additional time be granted for the same."*

*8. Before writing letter dated 09.02.2010, the assessee was asked to furnish the following information vide letter dated 04.02.2010 written by the Assessing Officer:-*

*"a) Regarding the origination, please submit the copies of purchase bills/invoices (purchases in any year) and to support please also file transport challans, G.R. Bilti copies etc. with respect to the purchase bills/invoices referred.*

*b) Details of payments made to creditors through banking channel.*

*c) Please furnish the books of accounts, copy of tax computation & audit report for the year in which the major accounts of the creditors originated.*

*d) As is seen from the assessment order (page-3) and the notice dated 09.02.2007, the confirmation from each creditor and complete address of each creditor was requested, which however, were not filed. To substantiate the claim made before the Ld. CIT(A), you are required to file the confirmation from all the creditors (not limited to top ten) on their letterheads and furnished the complete address of each.*

*e) It is seen from the table submitted that the balances of the creditors are same at the end of each year, please explain the reason for the same. Whether any effort has been made by the creditors to recover the same, if yes, please furnish the documentary evidence."*

*9. We have quoted the operative and the reasoning portion given by the Tribunal. The said portion does not, in fact, deal with the various issues and the contentions. It does not take notice of the assessment order and the findings recorded by the Assessing Officer that several notices were issued to the assessee and there was no compliance and ultimately, as no details and particulars with regard to the sundry creditors of more than Rs.38 crores was forthcoming, thus addition was made. The CIT (Appeals) recorded that some of the entries were made in the year 2002-03. It is not understandable and explained why the sundry creditors continued to supply goods and/or give further credit, though no payment was made. The amount payable to the sundry creditors was substantial and it is not*

*understandable why the assessee was not able to furnish and give all details like, addresses, supplies or invoices etc..*

*10. The matter requires greater in depth scrutiny and examination specially keeping in view the fact that the assessee had failed to furnish records and details at the time of the original assessment. Non-cooperative and reluctant attitude adopted by the respondent assessee has not been adverted to, considered and given any credence. At this stage, we may note that the counsel for the respondent/assessee had submitted that the letters dated 21.01.2010 and 09.02.2010 may not have been filed before the Tribunal. These letters were written by the Assessing Officers to the CIT (Appeals). They should had been filed before the Tribunal and in any case it is not disputed that they are part of the first appeal record. We notice that the order of the Tribunal, is devoid of details and simply records that the CIT (Appeals) had examined the provisions of Section 41(1) and had not made any addition in the said account. It does not discuss any facet as such. The quantum/amount itself is substantial and this along with the conduct of the respondent is a relevant fact.*

*11. In these circumstances, we have no option but to record that the Tribunal has not dealt with the issue in question in depth and detail as was required and necessary. Various aspects including the findings and observations in the assessment order have not been considered. The amount involved is substantial and fair, just and equitable decision requires that full facts and details should be brought on record including the dates on which entries were made, invoices or goods receipts should be produced, addresses and identities should be enquired into. Names of proprietors and the addresses of concerns i.e. M/s. Alpha Exports and M/s. K.S. Traders have not been brought on record and it has not been examined whether the said amounts were entered in the books of accounts of M/s. Alpha Exports and M/s. K.S. Traders.*

*12. The question of law is accordingly answered in favour of the appellant and against the respondent/assessee and an order of remand to the Tribunal is passed to adjudicate the appeal afresh, without being influenced by the earlier decision. It is also clarified that the Tribunal will be entitled to examine all aspects on merits without being influenced by the observations made above, which are for the purpose of deciding the present appeal. Parties will appear before the Tribunal on 12th August, 2013.”*

3. It is in this factual backdrop that we now take up the matter in furtherance to their lordships remand directions. That being the case, the assessee vehemently argues in support of the learned CIT(A) detailed discussion that the impugned addition has been rightly deleted in his favour. He could hardly dispute that all these

contentions/issues have been set to rest in their lordships detailed discussion with a clear fact finding that not only the matter requires in depth scrutiny and examination keeping in view the fact that the assessee had failed to furnish records and details at the time of original assessment but also the corresponding entries, invoices or goods receipts, addresses, and identities also need to be inquired. We thus deem it appropriate in light of their lordships' directions in the larger interest of justice to restore the Revenue's instant sole substantive ground back to the learned Assessing Officer for his afresh appropriate adjudication as per law within three effective opportunities. The assessee shall be at liberty to plead and prove all the necessary facts by filing his detailed evidence in consequential proceedings; at his risk and responsibility, which shall be considered as per law.

All other remaining issues between the parties are kept open at this stage.

4. This Revenue's appeal is allowed for statistical purposes.

***Order pronounced in the open court on 4<sup>th</sup> February, 2026***

***Sd/-***  
**(NAVEEN CHANDRA)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 16<sup>th</sup> February, 2026.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi