

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

**Before Dr. B. R. R. Kumar, Accountant Member**

**Ms. Astha Chandra, Judicial Member**

**ITA No. 1034/Del/2019 : Asstt. Year : 2006-07**

Subhash Chander Khanna, H-352, New Rajinder Nagar, New Delhi-110060	Vs	Income Tax Officer, Ward-33(4), New Delhi
(APPELLANT)		(RESPONDENT)
<b>PAN No. AIRPK2900N</b>		

**Assessee by : Sh. Ved Jain, Adv.**

**Revenue by : Sh. Umesh Takyar, Sr. DR**

**Date of Hearing: 07.02.2022**

**Date of Pronouncement: 07.03.2022**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT(A)-17, New Delhi dated 01.12.2015.

2. Following grounds have been raised by the assessee:

*"1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad, both in the eye of law and on the facts.*

*2. On the facts and circumstances of the case the order passed by the learned CIT(A) is bad in law having been passed ex-parte without giving the assessee an appropriate and adequate opportunity of being heard in clear violation of the principles of natural justice.*

*3. On the facts and circumstance of the case the order passed by the learned CIT(A) is bad both in the eyes of law and on facts as the same has been passed without giving any finding on the merits of the case.*

*4. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the initiation of the reassessment proceedings and the reassessment order are bad both on facts and in law and liable to be quashed as the statutory conditions and procedure prescribed under the statute have not been complied with.*

*5. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the reassessment order passed by the A.O. is bad and liable to be quashed as the same has been reopened on the basis of the reasons which are vague and has been recorded without application of mind on the part of the A.O.*

*6.(i) On the facts and circumstances of the case, the learned CIT(A) has erred both on facts & in law in confirming the addition of Rs.4,00,74,711/- on account of deposits in the bank.*

*(ii) That the above addition has been confirmed ignoring the explanation and evidences submitted by the assessee in support of its contention.*

*7. Without prejudice to the above and in the alternative, the learned CIT(A) has erred both on facts and in law in ignoring the settled position of law that addition only to the extent of peak credit in the bank account can be made."*

3. The brief facts of the case are that the assessee had credited a total amount of Rs.4,00,74,711/- in the bank accounts of his various proprietary concerns. All the deposits were made in PNB, New Delhi in the names of Tirupati Textiles, Shree Balajee Fabrics, Bhagwati Textiles, Saraswati Textiles, Shree Mahalaxmi Fabrics respectively and thereby total credit in the bank accounts of impugned proprietary concerns comes to Rs.4,00,74,711/-. To verify the nature and source of the cash credits, the case was reopened u/s 147 of the Act.

However, there was no compliance during the assessment proceedings and no return of income was filed in response to notice issued u/s 148 of the Act. The AO passed order u/s 144/147 of the Act and since, nature and source of the cash credits remained unexplained, therefore, addition of the same was made. The assessee filed appeal in Form no. 35 raising various grounds for which notice u/s 250 was issued on 19.03.2015, 07.07.2015, 24.07.2015, 07.08.2015, 16.09.2015, 12.10.2015 and 04.11.2015 respectively. However, there was no compliance on the part of the assessee. The notices were not only issued on the address given by the assessee in Form no. 35 but also on the latest address verified from the AO as well as from the PAN inquiry. However, neither anybody attended during the appellate proceedings nor any written reply was filed. Since, the basis of reopening, the case was to inquire about the cash credits made by the assessee in the bank accounts of his proprietary concerns, however, the assessee failed to comply either before the AO or before the Id. CIT(A).

4. The assessee has relied on the order of the Co-ordinate Bench of ITAT in ITA 1819/Del/2014 for A.Y. 2005-06 wherein the taxability of the entire deposits have been determined @ 12%.

5. We have gone through the order quoted and find that the bank account pertaining to Canara Bank in the name Tushar Fabrics whereas during the year all the deposits were made in PNB, New Delhi in the names of Tirupati Textiles, Shree Balajee Fabrics, Bhagwati Textiles, Saraswati Textiles, Shree Mahalaxmi Fabrics. The facts of the case have to be examined on year to year basis. The assessee has been purportedly doing the business of textiles, however the fact has not been examined,

just by having name of "textiles" doesn't necessarily mean that the assessee is in the business of trading in textiles. Further, we find that the case has been reopened u/s 148 and there was no compliance between the AO as well as before the Id. CIT(A). Determining the profit, examining the nature of deposits and the debits thereof and whether the debits have culminated into purchase of fabrics has to be examined by revenue to come to a correct verdict. Since, the facts have not been brought before the Tribunal for the instant year with regard to the nature of credit entries or in the bank statements, we deem it proper to remand the matter to the file of the Id. CIT(A) to determine the issue afresh after examining the bank accounts and determine the taxable income. The assessee shall comply to the notice of the revenue authorities promptly without seeking unnecessary adjournments.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 07/03/2022.

Sd/-

**(Astha Chandra)**  
**Judicial Member**

**Dated: 07/03/2022**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**