**(2010) 08 DEL CK 0156**

**In the Delhi High Court**

**Case No :** ITA 1260 of 2010

Commissioner of Income Tax APPELLANT

Vs

Kishore Apparels RESPONDENT

**Date of Decision :** 30-08-2010

**Acts Referred:**
Income Tax Act, 1961 — Section 260A, 68, 69

**Citation :** (2010) 08 DEL CK 0156

**Hon'ble Judges :** Dipak Misra, C.J;Manmohan, J

**Bench :** Division Bench

**Advocate :** Prem Lata Bansal, for the Appellant; None, for the Respondent

**Final Decision :** Dismissed

## Judgement

Manmohan, J.

CM 15149/2010

1. For the reasons stated in the application, delay in re-filing the appeal is condoned.

2. Accordingly, application stands disposed of.

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3. The present appeal has been filed u/s 260A of the Income Tax Act, 1961 (hereinafter referred to as "Act, 1961") challenging the order dated 8th May, 2009 passed by the Income Tax Appellate Tribunal (for brevity "Tribunal") in ITA No. 4018/Del/2007 for the Assessment Year 2003-2004.

4. Ms. Prem Lata Bansal, Learned Counsel for the Revenue submitted that the Tribunal had erred in deleting the addition of Rs. 90,00,105/- on account of unverifiable purchases u/s 69 of Act, 1961 and addition of Rs. 90,32,014/- on account of unexplained expenses u/s 68 of the Act, 1961 by the Assessing Officer.

5. Ms. Bansal pointed out that the assessee did not even file the PAN detail and

complete address of the parties. She submitted that the onus lay on the assessee to prove the genuineness of the parties from whom purchases had been made and on whom expenditure had been incurred.

6. However, upon a perusal of the paper book, we find that both the Commissioner of Income Tax (Appeals) [for short "CIT(A)"] and Tribunal have deleted the addition made by the Assessing Officer. In fact, the assessee had purchased raw material and also got the job work done from the same parties in both earlier and subsequent assessment years. The Assessing Officer in the subsequent Assessment Year of 2004-05 has accepted all these parties and transactions as genuine. Moreover, both the CIT(A) and Tribunal have found that payments had been made to these parties through banking channels and tax had been deducted at source on the payments made towards job work charges.

7. Accordingly, in our opinion, the view expressed by the Tribunal is both fair and reasonable. Moreover, no substantial question of law arises in the present appeal. Accordingly, present appeal is dismissed in limine.