

आयकर अपीलिय अधिकरण, चण्डीगढ़ न्यायपीठ "एस.एम.डी" , चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH  
"S.M.D", CHANDIGARH

श्रीमती दिवा सिंह, न्यायिक सदस्य एवं, डा. बी.आर.आर. कुमार, लेखा सदस्य  
BEFORE: SMT. DIVA SINGH, JM & Dr. B.R.R. KUMAR , AM

आयकर अपील सं./ ITA No. 1699/Chd/2017

निर्धारण वर्ष / Assessment Year : 2009-10

Sh. Rupinder Pal Singh B-XIII-1363, Sukhram Nagar, Ludhiana	बनाम	The ITO-II (2), Chandigarh
स्थायी लेखा सं./PAN No: BDWPS5489K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

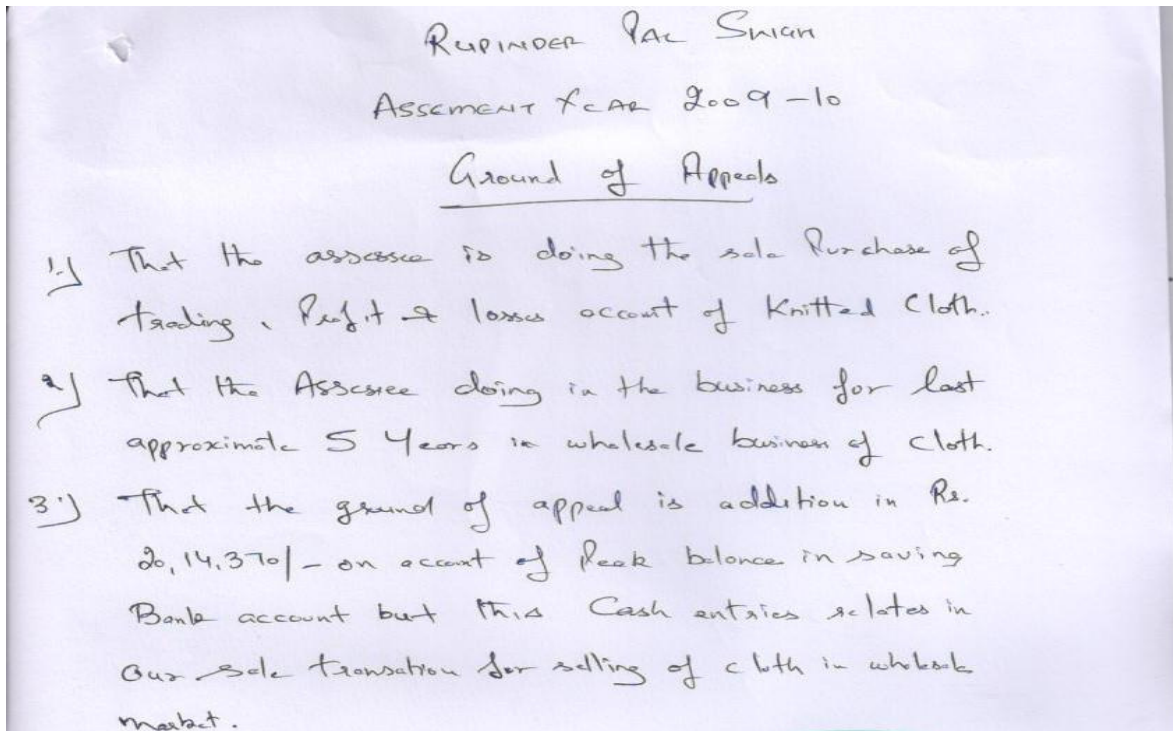
निर्धारिती की ओर से/Assessee by : None  
राजस्व की ओर से/ Revenue by : Smt. Chandrakanta  
सुनवाई की तारीख/Date of Hearing : 29/08/2018  
उदघोषणा की तारीख/Date of Pronouncement : 29/10/2018

आदेश/Order

PER DR. B.R.R. KUMAR, A.M.:

The present appeal has been filed by the Assessee against the order of the Ld. CIT(A)-1, Ludhiana dt. 19/08/2016.

2. The hand written grounds filed by the assessee (scanned copy ) are as under:



4.] That the respected our last ITP, Sh. R.K. Mehra, his due to personal problems could not appear in respected CIT (Appeals), Ludhiana, dismissed by the assessing authority.

5.] That our assessee told that income tax return preparer (Sh. R.K. Mehra) he is doing in wholesale business in sale purchase of cloth, but by mistake return preparer filled this return brokerage income. That is wrong return filled by the preparer on dated 29/12/2009. The assessing officer all cash deposited dividend income but this cash deposited is our sales receipts.

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he not submitted the purchase bills and trading and Profit & losses account.

6.] That as we are liable to audit u/s 44AB because our sales are Rs. 20,14,370/- and Profit shown in return is Rs. 24,000. which is less than the prescribed Profit Percentage mentioned under Income Tax act, 1961 i.e. 5%.

7.] That the assessee is ready to pay the prescribed taxes or 5% on sales and also ready to pay the Penalty for non-audit.

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3. The appeal has been barred by 31 days. The assessee submitted that owing to his ill health the appeal could not be filed in time. He produce the medical certificate to that extent, hence the delay is hereby condoned.

4. The brief and straight facts of the case are that the assessee has cash deposits of Rs. 27,35,000/- in the savings bank account maintained with HDFC

Bank. Before the Assessing Officer it was explained that the assessee is in the business of whole sale trading of clothes and earned income out of the commission / brokerage / trading of clothes. The assessee has been filing returns under section 44AF of the Income Tax Act,1961 . The Assessing Officer has made addition of Rs. 20,14,370/- being the peak cash deposits under section 69 and levied tax of Rs. 8,63,830/-.

5. The Ld. CIT(A) in an ex-parte order confirmed the addition made by the Assessing Officer.

6. Before us, through the grounds of appeal the assessee has submitted that the cash deposits is not his total income but it is the total sale receipts of the trading business. The assessee has submitted that the 5% of the turnover can be at best treated as the profits of the business.

7. The Ld. DR relied on the order of the lower authorities.

8. The Revenue could not bring anything to controvert the plea of the assessee.

9. Having gone through the facts of the case we feel that the ends of the justice would be met if the assessee is taxed @5% as per the provisions of Section 44AF on the total turnover as reflected in the bank account of the assessee.

10. All the grounds are treated as heard.

11. As a result the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-  
**दिवा सिंह**  
**(DIVA SINGH)**  
**न्यायिक सदस्य/ Judicial Member**  
**AG**  
**Date: 29/10/2018**

Sd/-  
**डा. बी.आर.आर. कुमार,**  
**(Dr. B.R.R. KUMAR)**  
**लेखा सदस्य/ Accountant Member**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File