

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCHES (CAMP AT MEERUT))**

**BEFORE SHRI N.S. SAINI, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.3766/Del./2016  
(ASSESSMENT YEAR : 2011-12)**

ITO, Ward 2 (1),  
Meerut.

vs. Shri Nadeem,  
27, Bazar, Abdullapur,  
Meerut.

(APPELLANT)

**(PAN : ADUPN2318M)**  
(RESPONDENT)

ASSESSEE BY : Shri Vinod Kumar Goel, Advocate  
REVENUE BY : Shri Yogesh Sharma, Senior DR

Date of Hearing : 07.01.2019

Date of Order : 16.01.2019

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

The appellant, Income-tax Officer, Ward 2 (1), Meerut (hereinafter referred to as 'the Revenue') by filing the present appeal, sought to set aside the impugned order dated 07.03.2016 passed by Ld. CIT (Appeals), Meerut qua the Assessment Year 2011-12 on the grounds inter alia that :-

*"1, Whether the Ld. Commissioner of Income Tax (Appeals), has erred in law and fact in directing the Assessing Officer to treat the Gross Profit at Rs.3,93,23,166/- and allow all the expenses claimed in P&L a/c in place of Net Profit of Rs.10,29,26,753/- that was estimated by the Assessing Officer @ 8% of the Gross Turn Over after rejecting the books of account u/s 145 of the I.T. Act, 1961, ignoring the fact that the estimated rate of Net Profit was arrived at by the Assessing Officer on the basis of the total business receipts declared by the assessee.*

2. *Whether the Ld. Commissioner of Income Tax (Appeals), has erred in law in deleting the addition of Rs.47,40,757/- made by the Assessing Officer towards unexplained sundry creditors u/s 68 of the I.T. Act, 1961, ignoring that the assessee totally failed to discharge the onus cast upon it to prove the genuineness, creditworthiness & identity of the creditors.”*

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : The assessee is into the business of trading buffalo meat on commission basis in wholesale. The Assessing Officer noticed that as against the turnover of Rs.1,28,65,84,416/-, the assessee declared net profit of Rs.17,04,438/- yielding 0.13%. On failure of the assessee to produce complete books of accounts, bills, vouchers and other details despite repeated opportunities, the AO estimated the profit by the assessee from the business receipt at 8% and thereby estimated the net profit at Rs.10,29,26,753/-. AO also made addition of Rs.47,40,757/- on account of unexplained sundry creditors under section 68 of the Income-tax Act, 1961 (for short ‘the Act’) as the assessee has failed to provide details of PAN, ITR and bank statement of the sundry creditors.

3. Assessee carried the matter by way of an appeal before the Id. CIT (A) who has deleted the addition by partly allowing the appeal. Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. At the very outset, it is brought on record by the Id. AR for the assessee that the assessee's appeal (ITA No.1538/Del./2016) challenging the impugned order passed by the CIT (A) has already been set aside to the AO to decide afresh after providing an opportunity of being heard to the assessee. In view of the matter, the present appeal filed by the Revenue challenging the same order passed by the Id. CIT (A) is also required to be set aside to the AO as all the issues arising out of the same impugned order are required to be decided by one order by the AO. So, in view of the matter, the present appeal is ordered to be set aside to the AO to decide afresh by considering all the contentions raised by providing an opportunity of being heard to the assessee. Consequently, appeal filed by the Revenue is allowed for statistical purposes.

**Order pronounced in open court on this 16<sup>th</sup> day of January, 2019.**

Sd/-  
(N.S. SAINI)  
ACCOUNTANT MEMBER

sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER

**Dated the 16<sup>th</sup> day of January, 2019**  
TS

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Meerut.
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.

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Date of Dictation : 07.01.2019

Date on which the typed draft is placed before the Dictating Member: 08.01.2019

Date on which the approved draft come to Sr.PS/PS : 15.01.2019

Date on which fair order sent to Member for signature : 15.01.2019

Date on which the fair order comes back after pronouncement to the Sr.PS/PS : 21.01.2019

Date on which order is uploaded: 21.01.2019

Date on which the file goes to the Bench Clerk: 21.01.2019

Date on which the file goes to the Head Clerk.....

The date on which the file goes to the AR for signature on the order.....

Date of Despatch of the Order.....

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