

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

**Before Sh. H. S. Sidhu, Judicial Member
And**

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

ITA No. 3009/Del/2015 : Asstt. Year : 2011-12

Ashwinder Pal Singh Puri, 3, 1 st Floor, DDA Commercial Complex, Sector D-4, Vasant Kunj, New Delhi-110070	Vs	JCIT, Range-24, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AANPP0003H		

**Assessee by : Sh. Sameer Kapoor, CA
Revenue by : Ms. Ashima Neb, Sr. DR**

Date of Hearing: 01.07.2019

Date of Pronouncement: 01.07.2019

ORDER

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

The assessee has raised following pertinent grounds of appeal:

"1. The lower authorities have erred in disallowing a sum of Rs.5,00,027/- on account Commission paid to Mr. Jaivir Sharma for procurement of order. Such conclusions are opposed to evidences on record.

2. The lower authorities have erred in disallowing a sum of Rs.15,00,000/- on account Commission paid to Mr. Dinesh Pal Singh. Such conclusions are opposed to evidences on record.

2. During the assessment the AO examined the genuineness of commission expenses paid to

1. Pyara Singh
2. Dildar Singh

3. Mohinder Prakash Singh
4. Dinesh Pal Singh
5. Ashwani Sharma
6. Jaivir Singh

And accepted the commission paid to individuals at no. 1, 2, 3 & 5. The commission paid to Sh. Dinesh Pal Singh and Sh. Jaivir Singh has been rejected as they could not furnish adequate evidences.

3. Before us, during the hearing the assessee has filed application under Rule 29 of ITAT Rules, 1963 submitting copies of communication exchanges by the assessee with various parties to substantiate that Mr. Dinesh Pal Singh was instrumental in negotiating the contracts. He relied on the decision of Hon'ble Delhi High Court in the case of CIT Vs Text Hundred India Pvt. Ltd. 239 CTR 263 wherein it was held that the additional evidences may be admitted if the additional evidence is necessary to do substantial justice. We find that the reason for disallowing the commission was non-filing of evidences before the AO and the evidences filed under Rules 29 would be required to do justice to the case. Hence, the same are being admitted.

4. Having admitted, we are of the opinion that since the Revenue has not got the opportunity of examining the additional evidences, in the interest of justice, the matter is being referred back to the file of the Assessing Officer to examine the details and pass an order in accordance with the provisions of the Income Tax Act, 1961. The assessee is also directed not to take any unnecessary adjournments and comply promptly to the notices issued by the Revenue.

5. Regarding the payments made to Sh. Jaivir Singh, it was argued that the submissions given by the assessee have not been properly

examined by the Assessing Officer. Ld. DR argued that all the commission payment have to be examined comprehensively.

6. Hence, Keeping in view that the facts mentioned above the matter is referred back to the file of the Assessing Officer to examine *de novo* the commission payments made to Sh. D.P. Singh and Sh. Jaivir Singh.

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

(Order Pronounced in the Open Court on 01/07/2019).

Sd/-

(H. S. Sidhu)
Judicial Member

Dated:01/07/2019

Subodh

Copy forwarded to:

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

Sd/-

(B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR