

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

**Before Sh. H. S. Sidhu, Judicial Member
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 4515/Del/2016 : Asstt. Year : 2005-06

Sanjay Kumar Taneja, 128, DDA Flats, Safdarjung Enclave, New Delhi-110029	Vs	Income Tax Officer, Ward-31(4), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AXEPK7843A		

**Assessee by : Sh. Sanjay Kumar Taneja, Adv. &
Sh. Ved Parkash Chawla, Adv.
Revenue by : Ms. Ashima Neb, Sr. DR**

Date of Hearing: 03.07.2019	Date of Pronouncement: 08.07.2019
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ORDER

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

The assessee has raised following grounds of appeal:

"1. The Ld. CIT(A) relied upon the remand report of Assessing Officer dated 15th May 2012, which simply contains the reply from parties in response to Notice u/s 133(6) of the Income Tax Act 1961. The Ld. CIT(A) failed to appreciate the facts that the Ld. A. O. has not made any efforts to verify the responses received from the parties.

2. M/s Ambiance Leasing Ltd. has stated in his reply that they have not sold any vehicle to Mr. Sanjay Kumar Taneja or M/s Sanjay Motors. The Ld. CIT (A) failed to appreciate the fact that M/s Ambiance Leasing Ltd. has not denied selling vehicle through Mr. Sanjay Kumar Taneja.

3. The Ld. CIT (A) failed to appreciate the fact that the response received from parties in response to notice/s 133(6) by the A.O. is incomplete and the A.O. has not made any efforts to thoroughly investigate the

matter with due diligence before submitting the remand report.

4. The Ld. CIT (A) failed to appreciate the fact the A.O. has not made adequate efforts get compliance to Notice u/s 133(6) of the Income Tax Act 1961 from the parties which did not respond to said notice.

5. The Td. CIT (A) has failed to appreciate the fact that the assessee has given detailed list of parties vide letter dated 18th Dec 2013. The CIT (A) forwarded the list to A.O. who has submitted the remand report dated 19th Aug 2014.

6. The Ld. CIT (A) failed to appreciate the fact that the case pertains to F. Y. 2004-05 and the notice u/s 133(6) are being issued in the year 2010, there is every possibility that the parties may have shifted their and the notice received back.

7. The Ld. CIT (A) has concluded that the appellant is in the business of sale and purchase of cars, but failed to appreciate that the commission in the trade of sale & purchase of cars is being fixed by the Car Dealers Association ranging between 1000 to 2000 per vehicle depending upon the value of vehicle, as set by the Car Dealers Association. Thus the arbitrary rate of 2% is very much on the higher side.

8. The Ld. CIT (A) failed to appreciate the facts that appellant has made the DD or issued cheques to parties either on the same day or next day of deposit of cash in the bank account."

2. We have gone through the arguments of both the parties and perused the documents available on record holistically.

3. The assessee is in the business of car trading and earning commission income. During the year, the assessee had cash deposits to the tune of Rs.53,14,900/- in the account maintained with Indian Overseas Bank. During the hearing, before us, the assessee in person argued that in the business of sale and purchase of second hand cars and also deals with providing of cars from dealers on which he gets

commission ranging from 2 to 4%. The Revenue has not disputed the factum of doing a commission business in sale and purchase of the car. Before the authorities, he has given the details about the persons to whom the vehicles have been provided and also the details of dealing with various car dealers, namely, M/s Saket Motors Pvt. Ltd. and M/s Ambience Leasing Ltd. The details of various cars and the numbers ranging from the models ZEN 2002 to Tavera to Honda have been provided to the authorities below. It was argued that the cash deposits pertain to the amounts received from the respective buyers and the same amount was utilized to pay the car sellers on which he earns the commission.

4. We have gone through the details submitted by the assessee which have been duly mentioned in the page nos. 9 to 13 of the order of the Id. CIT(A). From the details filed that it is equivocally established that the assessee is in the business of trading of cars and from the record of sale and purchase, the cash deposit can also be correlated. The deposits can be treated as part of the business proceeds. Hence, keeping in view the entire facts and circumstances of the case and after hearing the Id. DR, we hold that the interest of justice would be met if the assessee is taxed @ 3% on the total turnover after giving the due benefit for the expenses incurred.

5. In the result, the appeal of the assessee is allowed.
(Order Pronounced in the Open Court on 08/07/2019).

Sd/-

(H. S. Sidhu)
Judicial Member

Dated: 08/07/2019

Subodh
Copy forwarded to:
1. Appellant

Sd/-

(B. R. R. Kumar)
Accountant Member