

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC-2 : NEW DELHI
BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER**

ITA No.3168/Del/2019
Assessment Year: 2011-12

Sanjiv Dutta,
DD-232, Western Marg,
Saidulajab, MB Road,
Mehrauli,
New Delhi.

Vs

ITO,
Ward-31(3),
New Delhi.

PAN: AEOPD1198N

(Appellant)

(Respondent)

Assessee by	:	Shri Manu K. Giri, Advocate
Revenue by	:	Shri D.S. Yadav, Sr.DR
Date of Hearing	:	05.03.2020
Date of Pronouncement	:	13.03.2020

ORDER

This appeal filed by the assessee is directed against the order dated 25th February, 2019 of the CIT(A)-11, New Delhi, relating to the A.Y. 2011-12.

2. Although a number of grounds have been raised by the assessee, these all relate to the order of the CIT(A) in sustaining the addition of Rs.37,63,336/- made on account of disallowance of purchase of Rs.34,58,139/- and disallowance of expenses of Rs.3,04,197/-.

3. Facts of the case, in brief, are that the assessee is an individual and is running a proprietary concern in his own name and also derives Income from

other sources.ø He filed his return of income on 30th September, 2011 declaring a taxable income of Rs.6,50,860/-. The AO, during the course of assessment proceedings, noted that the assessee has debited an amount of Rs.3,45,81,398/- on account of purchases. Since the assessee did not produce the purchase bills despite a number of opportunities granted by him, the AO disallowed an amount of Rs.34,58,139/- being 10% of such purchases. Similarly, in absence of production of bills and vouchers relating to the various expenses claimed in the P&L Account totalling to Rs.6,08,395/- the AO disallowed an amount of Rs.3,04,197/- being 50% of such expenses. In appeal, the Id.CIT(A) sustained the additions made by the AO.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

5. The Id. Counsel for the assessee submitted that the assessee's business was constantly declining and subsequently, the premises of the assessee was sealed by the DRT. Therefore, the assessee was not in a position to produce the details before the Id.CIT(A). He submitted that in the mean time, the DRT has lifted the prohibitory orders and given an opportunity, the assessee will produce the details of purchases and other details before the AO to substantiate its case. He further submitted that the disallowance of 10% of the purchases and disallowance of 50% of the expenses are also on the higher side. He accordingly submitted that in the

interest of justice, the assessee should be given one final opportunity to substantiate its case.

6. The Id. DR, on the other hand, heavily relied on the orders of the AO and the CIT(A) and submitted that despite number of opportunities granted by the AO and the CIT(A), the assessee did not produce the details for which the AO made the addition which was sustained by the CIT(A). He accordingly submitted that the order of the CIT(A) be upheld.

7. I have considered the rival arguments made by both the sides and perused the record. It is an admitted fact that due to non-production of details of purchase bills and vouchers, the AO disallowed 10% of the purchases amounting to Rs.34,58,139/-. Similarly, due to non-production of details of expenses, the AO disallowed 50% of such expenses amounting to Rs.3,04,197/-. I find, in appeal, the Id.CIT(A) sustained the addition made by the AO since nothing more was produced before him to substantiate the same. It is the submission of the Id. Counsel that due to the orders of the DRT, the premises of the assessee was sealed and he was not in a position to produce any document before the CIT(A). It is also his submission that the disallowance of such huge amount by the AO which has been sustained by the CIT(A) is on the higher side. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the AO with a direction to give one final opportunity to the assessee to substantiate its case by producing details of purchases and various expenses

debited in Profit & Loss Account with bills and vouchers to the satisfaction of the AO. The AO shall decided the issue as per fact and law after giving due opportunity of being heard to the assessee. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

The decision was pronounced in the open court on 13.03.2020.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 13th March, 2020.

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Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi