

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'I(2) + SMC' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER,
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 4816/DEL/2019 (A.Y 2010-11)

Unity Automation Solution Ltd. B-41, Shivam Apartments, Plot NO. 13, D- Block, Vikashpuri New Delhi AAACU9831A (APPELLANT)	Vs	ITO Ward-27(1) New Delhi PIN 110002 (RESPONDENT)
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Appellant by	None
Respondent by	Sh. Pradeep Singh Gautam, Sr. DR

Date of Hearing	05.03.2020
Date of Pronouncement	20.03.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 27/03/2019 passed by CIT(A)-16 New Delhi for Assessment Year 2018-19.

2. The grounds of appeal are as under:-

“1. That on the facts and circumstances of the case, the order passed by the Ld. CIT(A) - 16 is bad both on the facts and in law in confirming the addition of Rs. 55,83,787/- made by A.O by erroneously applied Section 44AD of the Act.

2. That the Ld. CIT (Appeals) - 16 without considering the facts sustained the addition @ 8% on total receipts of Rs. 3,54,30,497/- for the A.Y. 2010-11 by taking guidance as per Section 44AD of the Income Tax Act, 1961 whereas

the Section 44AD shall

3. That Section 44AB of the Income Tax Act, 1961 applicable in the case as the gross receipts of the appellant for the A.Y. 2010-11 exceeds Rs. 3.50 crore. The A.O. also initiated penalty proceedings u/s 27 IB for non-filing of audit report for A.Y. 2010-11. Therefore, A.O. erroneously applied the provision of the Section 44AD of the Act.

4. That the A.O. rejected the books of account due to the reason not satisfied about the correctness or completeness of the accounts ignoring the fact that the appellant filed Audited Financial Statement including Balance Sheet and P & L A/c during assessment proceedings. Whereas the A.O. took gross receipts value as shown by the appellant in its P & L A/c even after rejecting the same.

5. That the A.O. disallowed the loss of Rs. 27,49,347/- claimed by the appellant in the Income Tax Return for the A.Y. 2010-11 without any adverse material available against the appellant on record and unlawfully applied the provisions of Section 44 AD of the Income Tax Act, 1961”

3. The assessee company had been assessed under Section 147 read with Section 143(3) of the Income Tax Act, 1961 for the A.Y. 2010-11. The assessee company had not filed its Income Tax Return under Section 139(1) of the Act for e A.Y. 2010-11. The assessee Company deposited Cash of Rs. 8,31,500/- with Standard Chartered Bank and total receipts for the year under consideration was Rs. 3,54,30,497/-. The assessee company was in the business of Sale and Service of CCTV cameras and other security equipment's. The Assessing Officer issued Notice u/s 148 on 30.03.2017 for opening assessment proceedings of A.Y. 2010-11. The assessee company filed its Income Tax Return on 16.10.2017 declaring loss of Rs. 27,49,347/- vide Acknowledgement No. 245796791161017 in compliance to the Notice u/s 148 dated 30.03.2017. Director of the Company attended the hearing and filed Audited financial statement including Balance Sheet and P & L A/c for the A.Y. 2010-11. The Assessing Officer completed the assessment proceeding and

assessed the total income of Rs. 28,34,440/- i.e. 8% of total receipts of Rs. 3,54,30,497/- by taking the guidance from Section 44AD of the Act and disallowed the claim of loss of Rs. 27,49,347/- vide order dated 28.12.2017.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. None appeared on behalf of the assessee and there is no adjournment application on behalf of the assessee. The notice has been served to the assessee. Therefore, we are taking up the submissions of the assessee before the CIT(A) as well as before the Assessing Officer.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard the Ld. DR and perused the material available on record. The CIT(A) has given a categorical finding that the Assessing Officer rightly invoked the provisions of Section 44AD and applied rate of 8% on the contract receipts of the assessee during the year under consideration. The CIT(A) further observed that the request of the assessee to restrict the rate to 3% was never substantiated by the books of accounts nor was a part of the provisions of the Income Tax Act. Thus, there is no need to interfere with the findings of the CIT(A). Therefore, the appeal of the assessee is dismissed.

8. In result, the appeal of the assessee is dismissed.

Order pronounced in the Open Court on 20th March, 2020.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 20/03/2020
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	06.03.2020
Date on which the typed draft is placed before the dictating Member	09.03.2020
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	19.03.2020
Date on which the final order is uploaded on the website of ITAT	19.03.2020
Date on which the file goes to the Bench Clerk	19.03.2020
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	