

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC-2', NEW DELHI**

Before Ms. Suchitra Kamble, Judicial Member

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

(Through Video Conferencing)

ITA No. 7649/Del/2019 : Asstt. Year : 2016-17

Shitiz Saluja, 42-B, 1 st Floor, KD Block, Ashok Vihar-I, New Delhi-110052	Vs	Income Tax Officer, Ward-34(3), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. CUQPS0715N		

Assessee by : Ms. Nupur Mangla, CA

Revenue by : Sh. R. K. Gupta, Sr. DR

Date of Hearing: 17.06.2021

Date of Pronouncement: 29.06.2021

ORDER

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

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-12, New Delhi dated 27.06.2019.

2. Following grounds have been raised by the assessee:

"1. That on the basis of facts and the law governing the case, the Id. Assessing Officer is not justified in disallowing the expenses related to commission and shipping charges."

3. The assessee is a sole proprietor of M/s Zacco India. The assessee is engaged in sale of imported and domestically sourced items through various e-commerce websites such as Amazon, Flipkart, Snapdeal etc. The assessee lists his goods on these e-commerce websites and receives orders from customers

through them. The e-commerce operators provide various services to the assessee to facilitate sales of his products viz. marketing, packaging, logistics, delivery, collection of returned items, collection of payments etc.

4. In lieu of the above services, the e-commerce operators charge various fees such as commission, marketing fees, payment collection fees, courier fees etc. Consolidated invoices are issued to the assessee on a monthly basis for all these charges. In this case, the assessee has deducted TDS @ 10% u/s 194H on the entire invoice value and booked the same under the head 'Commission and Shipping Charges'.

5. The amounts paid to the relevant e-commerce operators by the assessee are as follows:

S.No.	Name of the party	Amount debited to P&L Account (In
1.	Snapdeal (M/s Jasper Infotech Pvt. Ltd.)	10,20,207/-
2.	Flipkart (Flipkart Internet Pvt. Ltd.)	13,32,670/-
3.	Amazon (Amazon Seller Services Pvt. Ltd.)	53,232/-

6. The AO has written to the relevant e-commerce operators and asked them to confirm the nature and value of their transactions with the assessee. The replies of the operators are enumerated as below:

a) Snapdeal (M/s Jasper Infotech Pvt. Ltd.)

- In response, the operator has only mentioned the nature of the business i.e. online platform provided to buyers and sellers.

However, no details regarding the nature of transactions and details of the fees charged have been provided.

- The ledger account of the assessee as per their books has been provided which contains details of all debits and credits including reversals. The ledger does not provide details of the net amount charged from the assessee on various counts such as marketing fees, fulfillment fees, payment collection fees and courier fees.
- The operator has submitted that the total amount of commission received from the assessee is Rs 420,348/-. However, no details related to other charges recovered from the assessee have been provided e.g. courier fees, fulfillment fees etc. The operator has also not provided details of the invoices issued to the assessee.
- Thus, the information provided by the operator is not complete.
- The assessee has booked the expenses on the basis of invoices issued by the operator. The entire invoice value has been booked under the head 'Commission and Shipping Charges' and all sub-items of the invoice are subsumed in this head.

b) Flipkart (Flipkart Internet Pvt. Ltd.)

- In response, the operator has provided details of all the fees charged such as transaction fees, shipping fees, cash collection charges, cancellation fees.
- The submission of the operator shows that the total amount charged from the assessee is Rs 12,21,752/-

towards total fees and .Rs 173,209/- towards service tax and cess. The total amount comes to Rs 13,94,961/-.

- The AO has ignored the service tax amount and only considered the basic amount i.e. Rs 12,21,752/- to conclude that there is a difference of Rs 110,918/-.
- On the other hand, the assessee has only claimed Rs 13,32,670/- in the P&L account as per the invoices received from M/s Flipkart. This amount is less than the amount mentioned by M/s Flipkart in its submission to the Ld AO.
- Accordingly, there is no basis for any addition.

c) **Amazon Seller Services Pvt. Ltd.**

- In response, the operator has submitted that it is unable to collate information based on the PAN provided by the Ld AO.
- The operator has requested the AO to verify/ confirm the PAN. However, no such confirmation has been provided by the AO. Instead, he has mentioned in the assessment order that the balance as per party account is NIL, which is factually incorrect.
- The assessee has claimed the expenses as per the invoices issued by the operator and there is no basis for any addition.

7. Copies of all invoices were provided to the Ld. CIT(A). However, the Ld. CIT(A) has merely held in his order that the assessee has not been able to substantiate the genuineness of the expenses.

8. We have gone through the record before us and find that the confusion arose owing to the deduction of TDS by the assessee u/s 194H and dissimilar approaches taken by the assessee in recording the fact and the interpretation of the same by the revenue. Hence, we hold that the interest of justice would be well served if the matter is remanded back to the file of the AO with direction to the assessee to file proper reconciliation statements. The AO would go through the same and deal with it in accordance with the approved accounting standards and provisions of the Income Tax Act.

9. In result, the appeal of the assessee is allowed for statistical purposes.

Order Pronounced in the Open Court on 29/06/2021.

Sd/-

(Suchitra Kamble)
Judicial Member

Dated: 29/06/2021

Subodh

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR