

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "B" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI SANJAY GARG, JUDICIAL MEMBER**

**ITA No.2891/Del/2018
Assessment Year : 2015-16**

Sh. Shahnawaz Quereshi H. No.123, Pocket-A, Samar Garden, Near Masjid Fathellapur Road, Meerut	vs	DCIT, Circle-2, Meerut
PAN-DFHPS2140E		
APPELLANT		RESPONDENT

Appellant by	Sh. Ramit Kakkar, Adv.
Respondent by	Dr. Maninder Kaur, Sr. DR
Date of Hearing	23.09.2021
Date of Pronouncement	01.10.2021

ORDER

Per Sanjay Garg, Judicial Member :

The present appeal has been preferred by the assessee against the order dated 08.03.2018 of the Ld. Commissioner of Income Tax (Appeals) (hereinafter referred to 'CIT(A)'), Meerut, for the Assessment Year 2015-16.

2. The assessee has taken following grounds of appeal:-

“That on the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) has erred in restricting the ad-hoc estimated disallowance to 5% as against 10% done by the Assessing Officer from the total purchases, which course of action is arbitrary and illegal and bad in law.”

2. The brief, facts of the case are that the assessee is engaged in the trading of raw meat. The assessee during the year filed his income tax return on 26.09.2015 declaring income of Rs.12,83,720/-. During the course of assessment proceedings, the Assessing Officer observed that the assessee had made purchase of raw meat totaling Rs.5,43,78,985/- from individual parties. In order to verify the purchases, the Assessing Officer summoned three parties out of whom, two parties did not appear. One Mohd. Ashraf appeared and confirmed the sales of raw meat to the assessee. However, the Assessing Officer found certain discrepancies in his statement and held that the statement was not trust worthy. The Assessing Officer accordingly held that the assessee had failed to get the purchases verified. However, he observed that the assessee had shown corresponding sales also and further that sales were not

possible without purchases. He therefore disallowed 10% of the total purchases on ad-hoc basis.

3. In appeal before the Ld. CIT(A), the assessee explained that the persons from whom the assessee made the purchases of raw meat were generally petty traders and who generally were not required to maintain any account. Most of them were illiterate and were hesitant to come to the Income Tax Authority because of various doubts and fear. It was further submitted that out of the three parties summoned by the Assessing Officer, one Mohd. Ashraf had appeared and confirmed the sales. The Ld. CIT(A) considering the overall facts and circumstances of the case observed that purchases were integral part of the business based on which the turnover of Rs.65,70,15,876/- was reached. He further observed that even the AO had accepted the books of accounts as well as the corresponding sales also. However, he further observed that due to failure of the assessee to get the purchases properly verified, there was an element of doubt regarding the purchases shown by the assessee. He therefore, held that it would be in the fitness of things that the disallowance

of purchases be reduced to 5% as against 10% of purchases made by the Assessing Officer.

4. Being aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

5. The Ld. Counsel for the assessee has reiterated the submissions as made before the Ld. CIT(A). He has further submitted that during the year, purchases were made by the assessee from 66 suppliers, however, the Assessing Officer had made enquiries in respect of three parties only out of which one party has confirmed the purchases so made by the assessee. The Ld. Counsel for the assessee has further submitted that the total purchases from the parties from whom the enquiries were made were only of Rs.17,62,500/-, however, the Assessing Officer disallowed 10% of the total purchases made of Rs.5,43,78,985/-, thereby, making addition of Rs.54,37,899/-, which has been reduced by the Ld. CIT(A) to 5% of the total purchases. The Ld. Counsel for the assessee has submitted that the disallowances out of purchases made by the lower authorities is on the higher side. He has further submitted that

since, the parties from whom the raw meat were purchased were small parties/petty traders and that the aforesaid trade was carried out in unorganized sector and that those people were reluctant to come to Income Tax Authorities. Further that the assessee had shown corresponding sales also, which have not been doubted by the Assessing Officer. He therefore has submitted that no disallowance was warranted in this case. The Ld. Counsel has submitted that in the alternative, some reasonable disallowance may be made out of the purchases.

6. The Ld. DR, on the other hand, has relied upon the findings of the authorities below.

7. After considering the over all facts and circumstances of the case, we are convinced that ad-hoc disallowance made by the lower authorities is on the higher side especially when the sales have not been doubted. However, the assessee has agreed to reasonable disallowance out of purchase made only because of the fact that the assessee could not get the purchases verified from the individual parties to the satisfaction of the Assessing Officer. In our view, it will be in the fitness of things to restrict

the disallowance to Rs.8 Lakh only, as also agreed to by the Ld. Counsel for the assessee. We order accordingly.

8. In the result, the appeal of the assessee is treated as partly allowed.

Order was pronounced in the Open Court on 01/10/2021.

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER
Delhi; Dated: 01/10/2021.

Shekhar

Sd/-

(SANJAY GARG)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI