

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

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI G.S.PANNU, PRESIDENT &  
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.4110/Del/2017  
[Assessment Year : 2013-14]**

Harish Chander Taluja, 1300, Pan Mandi, Sadar Bazar, New Delhi-110006 PAN-AAEPT8815C	vs	ACIT, Circle-63(1), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Sanjeev Chadha, CA	
<b>Respondent by</b>	Shri Umesh Takyar, Sr.DR	
<b>Date of Hearing</b>	03.11.2021	
<b>Date of Pronouncement</b>	31.12.2021	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee for the assessment year 2013-14 is directed against the order of Ld. CIT(A)-20, New Delhi dated 30.03.2017. The assessee has raised following grounds of appeal:-

1. *"The order dated 30.03.2017 passed by the learned Commissioner of Income Tax (CIT) Appeals-XX, New Delhi is bad in law and on facts and deserves to be quashed.*
2. *The ld.CIT(A) has erred in confirming the adhoc disallowance made of Rs.3,00,000/- on account of purchases made by the appellant.*
  - 2.1. *The ld.CIT(A) has erred in calculation and comparison of GP ratio and NP ratio while confirming the adhoc disallowance on account of purchases.*
  - 2.2. *That the disallowance of Rs.3,00,000/- on account of purchases by the learned Income Tax Officer is without any basis, arbitrary and*

*unjustifiable and the learned CIT(Appeals) erred in upholding the same.”*

2. Facts giving rise to the present appeal are that the return of income was filed by the assessee on 30.09.2013 declaring total income of Rs.58,35,250/-. Subsequently, the case was selected for scrutiny assessment and the assessment was framed by the A.O vide order dated 11/1/2016 u/s 143(3) of the Income Tax Act, 1961 (“the Act”). While framing the assessment, the Assessing Officer made following disallowances:-

[i]	disallowance on account of loading	Rs.28,787/-
[ii]	Disallowance on account of short & excess	Rs.3,857/-
[iii]	Disallowance of vehicle running and insurance	Rs.12,108/-
[iv]	Disallowance on account of freight	Rs.2,00,000/-
[v]	Disallowance on account of labour charges	Rs.35,000/-
[vi]	Disallowance on account of wages charges	Rs.40,000/-
[vii]	Disallowance on account of purchases	Rs.3,00,000/-

3. Aggrieved against this, the assessee preferred appeal before Ld.CIT (A) who after considering the submissions of the assessee and material available on record, partly allowed the appeal. Thereby, Ld.CIT(A) confirmed the addition of Rs. 3,00,000/-. On the basis that there was substantial increase by 6.53% in the purchases and decrease in the gross profit over last year.

4. Aggrieved against this, the assessee is in appeal before this Tribunal.

5. The only effective ground in this appeal is against sustaining the addition of Rs. 3 lacs out of additions made by the Assessing Officer.

6. Ld. Counsel for the assessee at the outset submitted that the Ld.CIT (A) confirmed the ad-hoc disallowance made on account of purchases. He submitted

that the Ld.CIT(A) ex-facie erred in confirming the disallowance on account of purchases. He submitted that the reason for confirming the disallowance is absolutely incorrect, the comparison of gross profit with purchase by the Ld.CIT (A) was incorrect as per the actual figures. He drew our attention to the chart submitted before the Ld.CIT(A) to demonstrate that the N.P ratio and G.P ratio increased but were not decreased as stated by the Ld.CIT(A). He submitted Ld.CIT(A) grossly erred in calculating and considering the average figures as the figure of the current year. He submitted that the GP ratio for the Assessment Year 5.95% in comparison to 5.34% average of last two years and NP ratio was 2.21% against 2.11% of the average of last 2 years. He submitted even if the reason of the Ld.CIT (A) is considered as regarding comparison of ratios for previous years as per actual figures. The ratio had increased. Hence, there ought not to be any disallowance on account of purchases.

7. It was further submitted that the disallowance on account of ad-hoc basis is not permissible under the law. There has to be some basis for making such ad-hoc disallowance. He submitted that the Assessing Officer as well as the Ld.CIT(A) did not point out any specific bills which did not qualify the expression u/s 37(1) of the Act. He submitted the payments were made through banking channel confirmation of most of the parties were submitted during the course of assessment proceedings. It was stated even the Assessing Officer made the disallowance in the absence of any tangible material on record. He submitted the Assessing Officer without mentioning any instance of absence of the date of missing voucher made an ad-hoc disallowance in respect of purchases made by the assessee. He submitted that the Assessing Officer failed to appreciate that

the complete details along with the address, TIN Number were made available on record. He submitted that the assessee has been filing that VAT returns before the concerned Department no adverse finding is given by the said Department. Therefore, the authorities below were not justified in making the disallowance.

8. Ld. Counsel for the assessee placed reliance on the decision of the Coordinate Bench rendered in the case of Prayag Polytech Vs. ADIT, Judgment of Hon'ble Delhi High Court in the case of Friends Clearing Agency Pvt. Ltd. Vs. CIT 322 ITR 269. Further, reliance was placed on the decision of the Tribunal in the case of ACIT Vs. M/s Ganpati & Company being ITA No 404/Del/2007 to buttress the contention if the books of the assessee are properly maintained and produced before the assessing authority. The disallowance should proceeds on items of expenditure which were not proved by the assessee and Ad-hoc disallowance on every year without assigning any reason is not justifiable.

9. On the contrary, Ld. Departmental Representative opposed the submissions and supported the assessment order and finding of the Ld.CIT(A) on this issue.

10. We have heard the rival submissions and perused the material available on record and gone through the orders of the authorities below. We find merit into the contention of the ld. Counsel for the assessee that the Ld.CIT(A) in Para 5.32 of his order erroneously stated that there was decrease in gross profit for the last year from the 5.57% to 5.34%.

For the sake of clarity and for effective adjudications in the finding of the Ld.CIT(A) is reproduced here as under:-

*“5.3.2 However, from the chart above it is apparent that there is a substantial increase by 6.53% in the purchases of the appellant. Considering the decrease in the gross profit over the last year from 5.57% to 5.34% and considering the increase in the purchases and the observation of the Assessing Officer that all the bills raised by the appellant in relation to purchases are not verifiable, the addition of Rs.3,00,000/ made by Assessing Officer out of total purchase of Rs.17,49,49,668/- is confirmed.”*

11. From the above finding, Ld.CIT(A) it is evident that the basis of confirming the addition is contrary to the records. The Revenue has not brought any material to substantiate the finding of the Ld.CIT(A). Therefore, considering the material available on records, we hereby direct the Assessing Officer to delete the addition. This ground of the assessee's appeal is allowed.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 31<sup>st</sup> December, 2021.

**Sd/-**  
**(G.S.PANNU)**  
**PRESIDENT**

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

*\* Amit Kumar/R.N \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI