

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)  
"C" BENCH, MUMBAI**

**BEFORE SHRI S. RIFAUH RAHMAN, HON'BLE ACCOUNTANT MEMBER AND  
SHRI PAVAN KUMAR GADALE, HON'BLE JUDICIAL MEMBER**

**ITA NO. 4016/MUM/2018 (A.Y: 2014-15)**

M/s. IMS Level One, Grand Bella Vista S.V. Road, Bandra (W) Mumbai - 400050  <b>PAN: AAFFI0407M</b>	v.	DCIT – Central Circle – 3(2) 19 <sup>th</sup> Floor, Air India Building Nariman Point Mumbai – 400 021
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	:	<b>None</b>
<b>Department by</b>	:	<b>Shri Dharmveer Singh</b>
<b>Date of Hearing</b>	:	<b>24.02.2022</b>
<b>Date of Pronouncement</b>	:	<b>24.02.2022</b>

**ORDER**

**PER S. RIFAUH RAHMAN (AM)**

**1.** This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-51, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 19.03.2018 for the A.Y. 2014-15.

**2.** Assessee has raised following grounds in its appeal: -

"1. *The learned Commissioner of Income Tax (Appeals) — 51, Mumbai [CIT(A)] erred in confirming the addition on account of unaccounted sales amounting to ₹.11,68,260.*

*Your appellant submits that the aforesaid un-accounted cash sales is considered by the appellant at the time of filing of return of income for A.Y. 2016-17. Your appellant submits that the aforesaid addition will amount to taxing the same income twice. Your appellant submits that under the facts and circumstances of the appellant's case, the aforesaid addition is bad-in-law, illegal and ought to be deleted.*

2. *Without Prejudice to the above, The learned CIT(A) erred in confirming the entire addition on account of un-accounted sales amounting to ₹. 11,68,260 as against the Gross Profit Percentage on the said sales.*

*Your appellant submits that the Assessing Officer ought to have restricted the addition to the extent of Gross Profit percentage i.e. 7% of the un-accounted cash sales.*

3. *Your appellant craves leaves to addto, alter, amend or vary all or any of the of aforesaid grounds of appeal as they/their representative may deem fit."*

**3.** We observed from the record that the hearing was posted since 14.05.2019, none appeared on behalf of the assessee until today except on 04.08.2021 a letter was filed for adjournment. The hearing was posted 16 times and none appeared. We deem it fit and proper to proceed to dispose off the appeal as it is pending from 2019. The bench has issued notice by RPAD on 16.11.2021 and 05.01.2022 which was returned unserved. Since the assessee has not appeared in spite of the several notices, we dispose off this appeal on merits after hearing the Ld.DR.

**4.** Ld. DR briefly explained the facts and supported the orders of the lower authorities.

5. Heard Ld. DR and perused the material placed on record, orders of the authorities below. On perusal of the order of the Ld.CIT(A), we find that the Ld.CIT(A) considered this aspect of the matter elaborately with reference to the submissions of the assessee and the averments in the Assessment Order and sustained the addition made by the Assessing Officer. While holding so, the Ld.CIT(A) observed as under: -

*"5.1. I have considered the facts of the case, submissions and contentions of the appellant, as also the order of the AO. It is observed that survey action u/s 133A was conducted by the Investigation Wing on IMS group on 26.11.2015, wherein various unaccounted sales transactions were unearthed. The amount of unaccounted sales transactions for the relevant year was of ₹.11,68,260/-. In course of the assessment proceedings, the assessee was asked to explain as to why the said amount of unaccounted sales should not be added to its total income. In response --the assessee submitted that the unaccounted sales were incorporated in the regular - books by taking accommodation sale entries in AY 2016-17 and therefore, it was contended that making an addition in the relevant year will result into double addition of the same amount. However, this explanation of the assessee was not accepted and the AO proceeded to make an addition of Rs 11,68,260/- being the amount of unaccounted sales.*

*5.2 In the appellate proceedings, the 'assessee' submitted that it 'had made unaccounted cash sales during the relevant year to' certain Doctors and Medical Stores due to commercial expediency. However, subsequently - it obtained accommodation entries of sales and incorporated the said cash sales in its regular books in the year relevant to AY 2016-17.-Accordingly, it was contended by the assessee that the action of the AO of making an addition of the said amount in the relevant year is incorrect since it will amount to double taxation considering that the amount of the said unaccounted sales have been included in the year relevant to AY 2016-17.*

*5.3 It was further submitted by the assessee that at the time of carrying out the transactions of the said unaccounted sales in the relevant year, it had not reduced its stock and the stock was reduced only when the accommodation entry of sales was availed in the year relevant to AY 2016-17. Therefore, without prejudice to its*

*contention that no addition should be made in the relevant year, the assessee made an alternate contention that an addition of only the gross profit on the said unaccounted sales can be made.*

*5.4 The contentions of the assessee have been duly considered. The contention of the assessee that the said amount of unaccounted sales of Rs 11,68,260/has been offered in AY 2016-17 and therefore, no addition should be made. in. the relevant year is not acceptable considering the undisputable fact that the said unaccounted sales have been made in the relevant year and therefore have to be considered for addition only in the relevant year. As regards the alternate contention of the assessee that addition of only the -gross profit arising from the said unaccounted sales can be made, the same. is also not acceptable considering: that no evidence has been furnished by the assessee to demonstrate that the stock was not reduced in the relevant year on account of the said unaccounted sale transactions. It is also noted that to substantiate its claim that the -stock-of the relevant year was not reduced on account of the said. unaccounted sales and the stock was only reduced when the accommodation entry for sales were availed in AY 2016-17, the assessee has not furnished the stock register of the relevant year and for the year relevant to AY 2016-17 either in the assessment proceedings or in the appellate proceedings. Therefore, no infirmity is found in the action of the AO in making the addition of ₹.11,68,260/ - being the unaccounted sales of the relevant year. Accordingly, all the grounds of appeal are dismissed."*

6. On a careful perusal of the order of the Ld.CIT(A) and the reasons given therein, we do not find any reason to interfere especially when there is no representation from the assessee side. Accordingly, appeal filed by the assessee is dismissed.

Order pronounced on 24.02.2022 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai / Dated 24.02.2022  
Giridhar, Sr.PS

Sd/-  
**(S. RIFAUH RAHMAN)**  
**ACCOUNTANT MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**