

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI**

**Before Sh. Saktijit Dey, Judicial Member**

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

**ITA No. 251/Del/2018 : Asstt. Year : 2014-15**

S. N. Nanda & Co., C-43, Pamposh Enclave, Greater Kailash-1, New Delhi-110048	Vs	ACIT, Circle-63(1), New Delhi-110001
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAAFS0270N</b>		

**Assessee by : Sh. Puneet Matta, CA**

**Revenue by : Sh. H. K. Choudhary, CIT DR**

**Date of Hearing: 16.03.2022**

**Date of Pronouncement: 18.05.2022**

**ORDER**

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

The present appeal has been filed by the assessee against the order Id. CIT(A)-20, New Delhi dated 24.11.2017.

2. Following effective ground has been raised by the assessee:

*"1. Learned authority below have erred in adding Rs.11,54,818/- on account of difference in turnover as per Service Tax Return and Income Tax Return."*

3. The assessee is an individual Chartered Accountant by profession. During the year under consideration, the assessee derived income from business or profession and income from other sources. The assessee filed return of income on 26.11.2014 declaring an income of Rs.47,52,800/-. The

assessee S. N. Nanda & Co. is a practicing Chartered Accountants partnership firm having 9 partners.

4. The Assessing Officer has held as under:

*"Addition on account of difference in STR and ITR: As per reasons, of selection the assessee was asked to file the reconciliation in respect of gross receipts shown in STR and ITR. From the explanation filed by the assessee it was observed that there is a difference of Rs. 11,54,818/- and given show cause as to why the same should not be added back to the income of the assessee. The AR of the assessee submitted that one of the partners is using firm's service tax number for the payment of individual serve tax, liability and corresponding receipts are shown in the concerned partner's individual receipts from business or profession. The reply of the assessee was considered but not found tenable as the assessee has failed to provide any justifiable explanation regarding his claim and also the claim of the assessee lacked appropriate supporting documents. Hence, in view of the above, the same amount of Rs.11,54,818/- is added back to the income of the assessee. "*

5. The firm has 2 office in Delhi

Address:	In charge
a. C43, Pamposh Enclave Greater Kailash -1, New Delhi -110048	Mr. A K Nanda
b. 96, Satya Niketan New Delhi	Mr. Jitendra Kumar Sharma

At both offices, separate accounts are maintained.

6. The firm is registered under Service Tax. As per law only one registration has been taken. The Service Tax registration is AAFS0270NST001. Reconciliation of Turnover as per Service Tax and Income Tax return is as under:

**S N NANDA & CO.  
SERVICE INCOME DETAIL OF AY 2014-15**

<b>Service Income Reported In Service Tax Return (a)</b>	
First Half (April to Sep 2013) Rs. 78,26,993.00	
Second Half (Oct to Mar 2014) Rs. 10,531,546.00	<b>18,358,539.00</b>
<b>Less:</b>	
<b>Income of Mr. J K Sharma Included In ST Return (b)</b>	<b>1,154,818.00</b>
<b>(This amount has been reported by him on his profit and Loss account)</b>	
<b>Income of S N Nanda &amp; Co. (a-b)</b>	<b>17,203,721.00</b>
<b>Income of S N Nanda &amp; Co. (As per Profit &amp; Loss account)</b>	<b>17,413,100.18</b>
<b>Income not liable for Service Tax</b>	<b>209,379.18</b>

Copy of Partnership Deed is perused.

7. Clause 15 of Partnership deed reads as under:

1. Each partner will be responsible for the work executed by him and under his supervision and will be entitled to the share of profit only out of the professional fees received from such execution irrespective of anything stated elsewhere in this deed.
2. The partner can carry on the professional practice in his individual name and it will be his personal income if required he can use the statutory registration of the firm. The other partners will have no right on such income.

8. It is evident that the income of Satya Niketan office of which Mr. Jitendra Kumar Sharma is in charge shall be his exclusive income.

9. Income Tax return of the firm was filed in which turnover of firm was shown as Rs.1,74,13,100/-.

- Copy of Acknowledgement (Annexure - III)
- Copy of Balance Sheet and Profit & Loss Account (Annexure - IV)
- Mr. Jitendra Kumar Sharma has also filed the return of income. Copy of Acknowledgement Attached (Annexure-V)
- Copy of statement of taxable income (Annexure - VI)
- Copy of Balance Sheet and Profit and Loss Account (Annexure-VII)
- Details of Turnover (Annexure - VIII)

10. The firm is liable for income tax @30%, so as the assessee who is also liable to tax @30%.

11. Thus, there is no loss of revenue to the authorities.

12. In view of the forgoing it is evident that,

- i. Turnover as per Service Tax Return and Income Tax Return is duly reconciled and has been correctly shown. Reconciliation attached at (Annexure) - II
- ii. There is no loss of revenue as there is no reason for any addition to the income as both the firm and Jitendra Kumar Sharma are liable to 30% tax rate.

13. Keeping in view, the entire facts and circumstances, reconciliation statement mentioned above and peculiarity of the instant case, the addition of Rs. 11,54,818/- is hereby directed to be deleted.

14. In the result, the appeal of the assessee is allowed.  
Order Pronounced in the Open Court on 18/05/2022.

Sd/-

**(Saktijit Dey)**  
**Judicial Member**

**Dated: 18/05/2022**

**\*Subodh Kumar, Sr. PS\***

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**