

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER**

ITA No. 1461/DEL/2018 [A.Y. 2013-14]  
ITA No. 1462/DEL/2018 [A.Y. 2015-16]  
ITA No. 1463/DEL/2018 [A.Y. 2015-16]

The A.C.I.T  
Central Circle - 26  
New Delhi

Vs.

G.D. Bakers Pvt Ltd  
(Formerly known as Tops Exports  
[India] Ltd), Plot No. 14,  
Block - B, Community Centre  
Janakpuri, New Delhi

PAN : AABCT 0145 P

(Applicant)

(Respondent)

Assessee By : Shri Ajay Wadhwa, Adv  
Ms. Bharati Sharma, CA

Department By : Shri Surender Pal, CIT- DR

**Date of Hearing : 14.06.2022**  
**Date of Pronouncement : 16.06.2022**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

These three separate appeals by the Revenue are preferred against three separate orders of the Commissioner of Income Tax [Appeals] - 29, New Delhi dated 26.12.2017 pertaining to Assessment Years 2013-14, 2014-15 and 2015-16.

2. Since in the captioned appeals before us the grievances of the Revenue are identical and were heard together, therefore, all these appeals are disposed of by this common order for the sake of convenience and brevity.

3. Issues are common and the underlying facts in issues are also common, though the quantum of addition by the Assessing Officer may differ in all the three appeals.

4. The representatives of both the sides were heard at length, the case records carefully perused.

5. The ld. DR placed strong reliance on the assessment order and read the relevant part of the assessment order making the impugned additions.

6. Briefly stated, the facts of the case are that a search and seizure operation u/s 132 of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'] was carried out on 22.12.2014 in the case of G.D. Foods group of cases. The case of the assessee was also covered in the search.

7. During the course of search carried out at different premises located in India in G.D. Foods, documents and data storage etc., belonging to the assessee company were found and seized. One of the hard disks seized contained data of Bakers-Bawana and cash sales made by the assessee for Assessment Years 2012-13, 2013-14 and 2014-15. The data was compiled by the Assessing Officer and compilation is exhibited at pages 2 to 15 of the assessment order, from which the Assessing formed a belief that the assessee is engaged in purchase and sale outside the books and is also maintaining stock outside the books of account.

8. According to the Assessing Officer, the assessee is engaged in unaccounted sale and purchase, which is usually  $2/3^{\text{rd}}$  unaccounted sales of the assessee. Taking a leaf out of the book entries, the Assessing Officer estimated the unaccounted sales at Rs. 49,16,146/- in Assessment Year 2013-14, Rs. 2,06,75,508/- in Assessment Year 2014-15 and Rs. 13,56,23,718/- in Assessment Year 2015-16.

9. Applying g.p rate disclosed by the assessee, the Assessing Officer made addition of Rs. 13,12,120/- in Assessment Year 2013-14, Rs. 49,68,325/- in Assessment Year 2014-15 and Rs. 3,40,95,802/- in Assessment Year 2015-16.

10. Proceeding further, taking a leaf out of the undisclosed sales, the Assessing Officer formed a belief that the assessee was having undisclosed stock also and basis the stock in trade turnover ratio, the Assessing Officer estimated the undisclosed stock and made addition of Rs. 1,92,22,131/- in Assessment Year 2013-14, Rs. 3,08,06,506/- in Assessment Year 2014-15 and Rs. 3,66,18,404/- in Assessment Year 2015-16.

11. Additions were assailed before the Id. CIT(A).

12. After considering the facts and submissions, the Id. CIT(A) was convinced that the assessee has not accounted for 2/3 of its sales in its books of account as appearing in the seized documents. The Id. CIT(A) was also convinced that the Assessing Officer was justified in calculating the figures of unaccounted sales. However, at the same time, the Id. CIT(A) was of the firm belief that as per the documents found and seized, unaccounted sale was Rs. 5,49,447/- in Assessment Year 2013-14, Rs. 1,92,307/- in Assessment Year 2014-15 and Rs. 9,24,189/- in Assessment Year 2015-16.

13. Drawing support from the decision of the Hon'ble Delhi High Court in the case of CIT Vs. Kabul Chawla 61 Taxmann.com 412, the Id. CIT(A) restricted the addition made by the Assessing Officer on account of g.p. on unaccounted sales found in the seized documents. Accordingly, addition was restricted to Rs. 4,44,640/- in Assessment Year 2013-14, Rs. 33,14,181/- in Assessment Year 2014-15 and Rs. 1,91,108/- in Assessment Year 2015-16.

14. Coming to the additions made by the Assessing Officer on account of undisclosed investment in stock, the Id. CIT(A) found that the additions on account of undisclosed stock was made by the Assessing Officer on assumption basis and there was no stock equivalent to the impugned additions found during the course of search action and the additions were deleted.

15. We have given thoughtful consideration to the orders of the authorities below. A perusal of the assessment order shows that the Assessing Officer has annexed Profit and Loss Account at pages 20 and 21 of the paper book from which it can be found that the assessee has incurred expenses outside the books of account and if the same are taken into consideration, the resultant figures in all the three assessment years is net loss.

16. A perusal of the provisions of section 132(4A) of the Act shows that there is a presumption that the entries found in the seized documents are true and correct and if the revenue draws support from such presumption, then such presumption is also correct in respect of all the entries in the books and seized documents.

17. We are of the considered view that once drawn presumption that the contents of the documents of the assessee taken into possession during the search were true, then the same holds good for the entire entries found in those documents which means that the Assessing Officer cannot ignore the unaccounted expenses resulting into net losses in the captioned Assessment Years.

18. Coming to the facts of the case in hand, we find that the additions made by the Assessing Officer are based upon the unaccounted sales found recorded in the hard disk. The Id. CIT(A) has restricted the additions to the extent of entries found to be not recorded in the books based upon the decision of the Hon'ble High Court of Delhi in the case of Kabul Chawla [supra]. Since the additions sustained by the Id. CIT(A) are based upon the facts found at the time of search, we do not find any error or infirmity in the findings of the Id. CIT(A).

19. Moreover, the additions on account of undisclosed investment in stock is totally presumptuous and is based upon surmises and presumptions and is not even remotely connected with the facts unearthed at the time of search. We, therefore, do not find any reason

to interfere with the findings of the Id. CIT(A). The impugned additions are deleted.

20. In the result, all the three appeals of the Revenue in ITA Nos. 1461, 1462 and 1463/DEL/2018 are dismissed.

The order is pronounced in the open court on 16.06.2022 in the presence of both the rival representatives.

**Sd/-**  
**[YOGESH KUMAR U.S]**  
**JUDICIAL MEMBER**

**Sd/-**  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: 16th June, 2022.

VL/

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	15.06.2022
Date on which the typed draft is placed before the dictating Member	16.06.2022
Date on which the typed draft is placed before the Other Member	16.06.2022
Date on which the approved draft comes to the Sr.PS/PS	16.06.2022
Date on which the fair order is placed before the Dictating Member for pronouncement	16.06.2022
Date on which the fair order comes back to the Sr.PS/PS	16.06.2022
Date on which the final order is uploaded on the website of ITAT	16.06.2022
Date on which the file goes to the Bench Clerk	16.06.2022
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	