

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

**BEFORE,
SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.7469/Del/2019
(ASSESSMENT YEAR 2013-14)**

M/s Techno Automobiles Pvt. Ltd. Prop. No.999, Aya Nagar M.G. Road, Near Arjangarh Metro Station New Delhi-110 047 PAN-AADCT 0125D (Appellant)	Vs.	Dy.CIT Circle-25(1) New Delhi (Respondent)
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Appellant by	Ms. Aditi Sabharwal, Advocate
Respondent by	Sh. H. K. Choudhary, Commissioner of Income Tax, Departmental Representative ("CIT (DR)" for short)

ORDER

PER ANADEE NATH MISSHRA, AM

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-9, New Delhi ["Ld. CIT(A)", for short], dated 14/08/2018 for Assessment Year 2013-14.

Grounds taken in this appeal are as under:

"1. The order of the learned Commissioner of Income Tax (A)-9 is arbitrary, against law and facts on record.

2. The learned Commissioner of Income Tax (A)-9 has erred in confirming all the additions that is are as follows:

• Disallowance on loss on sale of assets	Rs.7411645/-
• Disallowance u/s 40(a)(ia)	Rs.724056/-
• Disallowance u/s 40A(3)	Rs.100225/-
• Disallowance on account of late deposit of ESI	Rs.82003/-
• Disallowance on account of interest u/s 244A	Rs.69846/-
• Disallowance on Gift paid	Rs.32700/-
• Disallowance of expenses	Rs.5173782/-
• Disallowance u/s 37 of the Act	Rs.71714745/-
• Disallowance u/s 41 of the Act	Rs.13957455/-
• Disallowance u/s 269T of the Act	Rs.2040171/-

without going through the facts of the case, statutory provisions as well as submission filed during the course of proceeding.

3 The learned Commissioner of Income Tax (A) - 9 , while making addition of Rs. 7,17,14,745/- in respect of interest payable of contingent nature , which was not approved by the company , has not considered the fact that said the assessee has not claimed the same in the profit and loss account.

4 The learned Commissioner of Income Tax (A) - 9, has erred in making the addition in respect of loss on sale of assets of Rs. 74,11,645/- , ignoring the details and documentary evidence placed on record.

5. The learned Commissioner of Income Tax (A) - 9,while making addition of Rs. 1,39,57,455/- u/s 41 of the Income Tax Act,1961 has failed to consider the fact that said amount have already been taken as income in the Profit & Loss Account.

6. The appellant may be permitted to add, alter or amend any of the foregoing grounds of appeal.

7 The appellant herein pray that the order of the honorable Commissioner of Income Tax (A) - 9 should be set aside & quashed and all the deletion be deleted & the original income in the return filed be accepted.”

(B) At the time of hearing before us, at the outset, the learned Counsel for the assessee submitted that the assessee wished to only press the ground(s) related to disallowance of Rs.7,17,14,745/- (in respect of interest payable of contingent nature); and she further submitted that the grounds of appeal pertaining to the other additions made by the Assessing Officer and confirmed by the Ld. CIT(A) were not being pressed. The Ld. CIT (DR) for Revenue did not express any objection to this. Accordingly, all the grounds of appeal pertaining to additions other than the aforesaid addition of Rs.7,17,14,745/- are hereby dismissed, being not pressed by the assessee.

(C) In respect of the aforesaid addition of Rs.7,17,14,745/-, the learned Counsel for the assessee submitted that this amount was not even claimed as deduction by the assessee. She further submitted that the Assessing Officer had made this addition without even verifying from the assessee's accounts, whether the amount was even claimed by the assessee as an expenditure. She further submitted that the Ld. CIT(A) also confirmed the addition

without satisfying himself that the amount was claimed as an expenditure by the assessee. She strongly contended that the orders passed by the Ld. CIT(A) and by the Assessing Officer were without due application of mind and without proper appreciation of the facts, and also without proper verification of books of account as to whether this amount was claimed as deduction. She submitted that the issue in dispute regarding the aforesaid amount of Rs.7,17,14,745/- may be remanded back to the Assessing Officer for passing fresh order in accordance with law after verification of facts and examination of assessee's books of account. The Ld. CIT (DR) for Revenue also submitted that this issue in dispute may be set aside to the file of the Assessing Officer for fresh order in accordance with law.

(D) In view of the foregoing, and as representatives of both sides, the learned Counsel for the assessee as well as Ld. CIT(DR) for Revenue are in agreement on this, we restore the dispute regarding the addition of the aforesaid amount of Rs.7,17,14,745/- to the file of the Assessing Officer with the direction to pass a fresh

order on this limited issue after due verification of facts and proper examination of accounts, and after providing reasonable opportunity to the assessee.

(E) In the result, for statistical purposes, this appeal is treated as partly allowed.

This order was already pronounced orally on 24th August, 2022 in Open Court, in the presence of representatives of both sides. Now this order in writing is signed today on 25/08/2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Dated:25/08/2022

Pk

Copy forwarded to:

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

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW, DELHI