

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

SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No.6529Del/2019
Assessment Year: 2014-15

Trilok Goel C/o CA S.K. Goyal, 19/10, East of Punjabi Bagh, New Delhi PIN: 1100 26	Vs.	ITO, Ward-31(4), New Delhi.
PAN : AFIPG7839N		
(Appellant)		(Respondent)

Appellant by	N o n e
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	24.08.2022
Date of pronouncement	24.08.2022

ORDER

This is an appeal by the assessee against order dated 04.06.2019 of learned Commissioner of Income-Tax (Appeals)-11, New Delhi pertaining to assessment year 2014-15.

2. The grounds raised by assessee are as under:

1. That the order of the CIT(A) in confirming addition of Rs.3,45,736 made by the A.O is totally wrong, bad in law and needs to be quashed.

2. That the order of the CIT(A) in confirming turnover of Rs.1,73,88,076/- being the amount of entry provided against actual amount of Rs.1,36,73,990/- deposited in all the four accounts which were in the name of Kalka Udyog (Proprietorship firm) without any material or valid basis is totally wrong, bad in law and needs to be quashed.

3. That the order of the CIT(A) in confirming rate of commission 2.00% against gross commission rate charged by the assessee @ 0.40% to 0.45% and net income @ 0.20%, without bringing any material on record is totally wrong, bad in law and needs to be quashed. The rate of commission has been arrived by the A.O and confirmed by CIT(A) is on presumption basis and hence no value in eye of law and same is without jurisdiction. The A.O while calculating income of Rs.3,45,736/- deduction Rs.2,026/- which is calculated by applying 0.30% on turnover of Rs.6,75,417/- shown by the assessee in return of income. It clearly shows that the A.O has accepted the commission rate @ 0.30%. Hence addition made is bad in law and needs to be quashed.

4. That the order of the CIT(A) had erred both in law and on facts in sustaining the initiation of proceedings u/s. 147 of the Act and completion of the assessment u/s 147/143(3) of the Act in spite of the fact that notice u/s 143(2) was issued on the same date i.e. 12.12.2018 on which letter intimating that return filed on 19.03.2015 may be treated as return filed in response to notice is without jurisdiction and deserved to be quashed as such. The CIT(A) even ignored the judgments of the jurisdictional high court in ITA No.441/2010 dated 13.04.2010.

5. That the order of the CIT(A) in confirming addition of Rs.3,45,736/- calculated by the A.O by applying wrong method of calculation of income is totally wrong. Even if the percentage of 2% as commission charges is applied on 1,36,07,990/- (being the amount deposited in all the four bank accounts of the assessee in the name of Kalka Udyog), the maximum income

will come to Rs.2,73,479/- but the assessee has already shown gross income of Rs.3,24,752/-. The A.O deducted Rs.2,026/- by calculating the same from Rs.3,47,462/-. The method of calculation of additional income by the A.O and its confirmation by the Ld. CIT(A) is totally wrong and desires to be quashed.

6. That the assessee prays permission to add, delete or amend one or more grounds of appeal.”

3. When the appeal was called out for hearing, none appeared on behalf of the assessee. Even, there is no request for adjournment.

4. On perusal of record, it is observed, though, the appeal was fixed earlier for hearing on nine occasions starting from 04.01.2021, except 25.01.2022, however, assessee has always remained absent despite the fact that notice of hearing issued to the assessee through speed post was duly served. This is evident from the postal acknowledgement available on record. In fact, the last notice issued to assessee on 30th June 2022 fixing the date of hearing to 24th August 2021 was served on the assessee as per the postal acknowledgement kept on record. The aforesaid facts clearly reveal the casual and negligent approach of assessee. Thus, it has to be concluded that assessee is not interested in pursuing the present appeal. Since, sufficient opportunity of being heard has been extended to the assessee, I am of the view that assessee

deserves no further opportunity. Accordingly, I proceed to dispose of the appeal ex parte qua the assessee after hearing learned Departmental Representative and based on material available on record.

5. As could be seen from the grounds raised, the only dispute between the assessee and the revenue is with regard to the rate of commission earned by assessee as an entry operator.

6. Briefly the facts are, assessee is a resident individual. Based on information received indicating that during the year under consideration, assessee had deposited an amount of Rs.1,73,88,076 in his bank account, whereas, he has shown gross receipts of Rs.6,75,417 in the return of income filed for the year under consideration, the assessing officer formed belief that income chargeable to tax for the year under consideration has escaped assessment. Accordingly, he reopened the assessment under Section 147 of the Act. In course of assessment proceedings, the assessee was summoned under Section 131 of the Act and a statement was recorded from him on the issue of deposits made in the bank account. In the statement recorded, assessee admitted of providing accommodation entries to various parties on

commission basis. He, further stated that the commission charged by him varies between 0.40% to 0.5%. Alleging that assessee could not furnish any evidence to justify the commission charged @ 0.4% to 0.5%, assessing officer computed the commission received by assessee by applying the rate of 0.2%.

7. After reducing the amount already declared by assessee, the assessing officer added back an amount of Rs.3,45,573. Though, assessee contested the aforesaid addition before learned Commissioner (Appeals), however, he was unsuccessful.

8. I have considered the submission of learned Departmental Representative and perused the material available on record. It is evident, in course of assessment proceedings, in a statement recorded under Section 131 of the Act, assessee admitted the fact that he is an entry operator providing bogus accommodation entries on commission basis. In fact, assessee also stated that he charges commission 0.4% to 0.5% and has offered it in the return of income. However, assessee failed to furnish any cogent evidence before the departmental authorities to demonstrate that the commission charged at 0.4% and 0.5% is as per the prevailing rate in similar type of transactions.

9. Before me also, assessee has failed to appear and furnished evidence to support his claim. In the aforesaid view of the matter, I do not find any reason to interfere with the decision of learned Commissioner (Appeals) in computing the rate of commission at 2%.

10. As regards the issue raised by assessee in ground no.4, challenging the validity of proceeding under Section 147 of the Act, I do not find any merit in the said ground.

11. On a perusal of the assessment order, it is evident, assessing officer has followed due procedure in law while reopening and completing the assessment under Section 147 of the Act.

12. In the result, the appeal is dismissed.

Order pronounced in the open court on 24th August, 2022.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 24th August, 2022.
Mohan Lal

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	24.08.2022
2.	Date on which the draft of order is placed before the Dictating Member:	24.08.2022
3.	Date on which the draft of order is placed before the other Member:	
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	24 .08.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	24.08.2022
6.	Date on which the final order received after having been singed/pronounced by the Members:	24.08.2022
7.	Date on which the final order is uploaded on the website of ITAT:	31.08.2022
8.	Date on which the file goes to the Bench Clerk	31.08.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	