

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

**BEFORE SH. C. M. GARG, JUDICIAL MEMBER  
AND  
SH. N.K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.6234/Del/2016  
Assessment Year: 2012-13

<b>DCIT Circle -3 (1) New Delhi</b>	<b>Vs</b>	<b>Arxmind Consulting Services Pvt. Ltd. E-258, Shastri Nagar New Delhi-110052 PAN No.AAHCA7686G</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

<b>Appellant</b>	Sh. Kanv Bali, Sr. DR
<b>Respondent</b>	Ms. Gunjan Jain, CA

Date of hearing:	05/12/2022
Date of Pronouncement:	08/12/2022

**ORDER**

**PER N.K. BILLAIYA, AM:**

This appeal by the revenue is preferred against the order of the CIT(A)-1, New Delhi dated 16.09.2019 pertaining to A.Y.2012-13.

2. The solitary grievance of the revenue is that the CIT(A) erred in deleting the addition of Rs.15539788/- made by the AO by invoking of provisions of section 145 (3) and not appreciating the facts brought out by the AO in the remand report while admitting additional evidence under Rule 46A.

3. Briefly stated the facts of the case are that the assessee company is engaged in providing IT and Information Technology Services. The range of service rendered by the assessee company includes IT Software Products Development, Custom Application Development, support and maintenance services, server monitoring, software design and architecture services, online portal development, mobile app development etc. that enables various enterprises to solve complex and critical business problems.

4. During the course of the scrutiny assessment proceedings and on perusal of the P & L account the AO noticed that the assessee has debited following expenses under the head "other expenses" :-

1. Data entry expenses of Rs.10241518/-
2. Marketing expenses of Rs.11399800/-
3. The AO found that in the preceding assessment year data entry expenses were Rs.37,47,900/- and marketing expenses were Rs. Nil.

5. Assessee was asked to explain the variation in the aforementioned expenses. Assessee filed detailed reply though due to paucity of time complete reply could not be filed which prompted the AO to reject the books of accounts and make

addition of Rs.1,55,39,788/- by adopting the net profit rate of the preceding year.

6. Before the CIT(A) it was strongly contended that the AO did not give sufficient time and even after examining the details and also examining the books of accounts the AO did not issue any show cause notice in respect of alleged defects found by the AO in the examination of the books of accounts.

7. The CIT(A) admitted the additional evidences which were in the form of affidavit, confirmations, income tax details, bank statements and TDS certificates for the TDS deducted on the payments.

8. After considering the facts and the documentary evidences the CIT(A) was convinced that the AO was not justified for rejecting the books of accounts what has been stated merely on account of low net profit without pointing out specific defects in the books of accounts of the assessee and accepted the contention of the assessee and directed the AO to deleted the addition of Rs.1,55,39,788/-.

9. Aggrieved by this the revenue is in appeal before us.

10. The DR strongly supported the findings of the AO and read the relevant observations of the AO made in the assessment order.

11. Per contra the Counsel for the assessee reiterated what has been stated before the lower authorities.

12. We have carefully perused the orders of the authorities below. The financial ratios of the assessee for the assessment years are as under :-

A.Y.	Turnover	Gross Profit	Net Profit	G.P./N.P. Ratio
2012-13	7,34,29,321/-	2,09,03,184/-	2,09,03,184/-	28.47%
2011-12	8,06,72,645/-	4,00,38,500/-	4,00,38,500/-	49.63%
2010-11	5,15,52,047/-	3,19,31,439/-	3,19,31,439/-	61.94%

13. The details of trading results of the assessee company for the last 2 years is as under :-

S.NO	PARTICULARS	A.Y. 2012-13	A.Y. 2011-12
1.	Total turnover	Rs. 7,34,29,321	Rs. 8,06,72,645
2.	Net profit	Rs. 2,09,03,184	Rs. 4,00,38,500
3.	Gross profit rate	76.97%	68.14%
4.	Net profit rate	28.47%	49.63%

14. A perusal of the above show that though there is an increase in the gross profit rate but the net profit rate has been fallen down. The main reason for the fall in the net profit rate is the marketing expenses of Rs.11,39,9800/- which were not there in

the immediately preceding assessment year. It was explained that the marketing expenses have been incurred in-variably for “gromine”, the success of which could not withstand more popular portals like 99 acres, magic bricks and grofers etc.

15. We find that though the AO has questioned the fall in the net profit rate but has not pointed out any specific defect in the books of accounts of the assessee. In our considered opinion if the AO was not satisfied with certain expenses he should have disallowed those expenses but instead he chose to reject the entire books of accounts and made the addition on the basis of net profit rate of the immediately preceding assessment year which in our humble opinion is not only erroneous but also against the facts of the case in hand. We find that the CIT(A) after appreciating the facts in true perspective has deleted the addition, therefore, no interference is called for.

16. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 08.12.2022.

Sd/-  
**(C.M. GARG)**  
**JUDICIAL MEMBER**  
\*NEHA, Sr. Private Secretary\*  
Date:- .12.2022

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**