

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 9222/DEL/2019 [A.Y. 2016-17]

The A.C.I.T  
Circle 14(1)  
New Delhi

Vs.

M/s Kapsons Engineers Pvt Ltd  
Plot No. 554, Pace City -II  
Sector 37, Gurgaon, Haryana

PAN - AADCK 1513 A

(Applicant)

(Respondent)

Assessee By : Shri C.S. Anand, Adv

Department By : Shri Anuj Garg, Sr. DR

**Date of Hearing : 22.03.2023**

**Date of Pronouncement : 23.03.2023**

**ORDER**

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

This appeal by the Revenue is preferred against the order of the  
ld. CIT(A) - 5, New Delhi dated 17.09.2019 pertaining to Assessment  
Year 2016-17.

2. The solitary grievance of the Revenue is that the Id. CIT(A) has erred in deleting the addition of Rs. 4,33,56,825/-.

3. Briefly stated, the facts of the case are that the assessee filed his return of income electronically on 31.03.2017 declaring total income amounting to Rs. 74,29,920/-. Return was selected for scrutiny assessment through CASS and, accordingly, statutory notices were issued and served upon the assessee.

4. The Assessing Officer issued several notices, which remained uncomplied with by the assessee, and as the assessment was getting time barred, the Assessing Officer was left with no choice but to proceed with the assessment. The Assessing Officer had raised specific queries relating to the business and profit and asked the assessee to produce books of account for verification.

5. On receiving no plausible reply, the Assessing Officer estimated the profit and made addition of Rs. 4,33,56,825/-.

6. The assessee carried the matter before the Id. CIT(A) and vehemently objected to the estimation of the Assessing Officer.

7. Before the ld. CIT(A), the assessee furnished its past financial statements and pointed out that in the year under consideration, the assessee has shown better profit than the previous F.Ys. The ld. CIT(A) found the contention of the assessee to be correct and deleted the entire addition of Rs. 4,33,56,825/-.

8. Before us, the ld. DR vehemently stated that because of the non cooperation of the assessee, the Assessing Officer had estimated the profit and without considering the facts of the case, the ld. CIT(A) has deleted the entire addition.

9. The ld. counsel for the assessee reiterated what has been stated before the lower authorities. It is the say of the ld. counsel for the assessee that since the profit during the year under consideration is better than what is shown in the earlier F.Ys, the ld. CIT(A) has rightly deleted the impugned addition.

10. We have given thoughtful consideration to the orders of the authorities below. The undisputed fact is that the assessee did not cooperate during the assessment proceedings inspite of several opportunities.

11. Before us, it has been stated that the counsel who was entrusted with the assessment records did not reply to the queries of the Assessing Officer. In our considered view, this is a safe route to put the entire blame on the counsel without any demonstrative evidence. Findings of the Id. CIT(A) are based upon the financial results of the previous years but nothing has been brought on record to show that the earlier assessments were made u/s 143(3) of the Act after thorough scrutiny and after proper examination of books of account.

12. Without these facts, strong reliance cannot be placed on the financial results of the earlier years. At the same time, a reasonable estimate of profit cannot be ruled out. The Assessing Officer has made addition of Rs. 4.33 crores which is obviously on the higher side. But deletion of the entire addition is also uncalled for.

13. We, therefore, are of the considered view that in the interest of justice and fair play, and considering the non co-operative attitude of the assessee, addition of Rs. 50 lakhs should meet the ends of justice. We, accordingly, direct the Assessing Officer to restrict the addition to Rs. 50 lakhs.

14. In the result, the appeal of the Revenue in ITA No. 9222/DEL/2019 is partly allowed.

The order is pronounced in the open court on 23.03.2023.

Sd/-

**[ANUBHAV SHARMA]  
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 23<sup>rd</sup> March, 2023.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	
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