

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "A" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.7078/Del/2019
[Assessment Year : 2011-12]**

Ashok Kumar Sharma, 4306, Sec-B-5 & 6, Vasant Kunj, New Delhi-110070. PAN-AKZPS3781M	vs	ITO, Ward-24(4), New Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Kanv Bali, Sr. DR	
Date of Hearing	13.04.2023	
Date of Pronouncement	20.04.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2011-12 is directed against the order of Ld. CIT(A)-31, New Delhi dated 10.06.2019.

2. The assessee has raised following grounds of appeal:-

1. *"That the Honorable CIT(A) has erred in law and on facts in confirming the total addition of Rs 44,14,278/- to the total returned income of the appellant as stated below.*
2. *That the learned CIT has erred on facts and in law in confirming addition of Rs. 14,99,987/- by considering the purchases made by the appellant during the year under consideration as bogus purchase, merely because the confirmation furnished before the AO was not on the letter head of the supplier. Both CIT(A) and AO had ignored the fact that whole transaction was routed through banking channels and all the evidences were furnished before the AO and CIT(A).*

3. *That the learned CIT has erred on facts and in law in confirming addition of Rs. 28,05,157/- on account of job work charges by ignoring the fact that the whole payments were made through cheques, which are duly reflected in the Bank statements. Merely, for the reason that no confirmation was received from the parties cannot by itself prove that such parties do not exist.*
4. *That the learned CIT has erred on facts and in law in confirming addition made for telephone expenses amounting to Rs. 34,607/- on an adhoc basis by presuming that 1/5th out of the expense was incurred for personal use.*
5. *That the learned CIT has erred on facts and in law in confirming addition made for car running and depreciation expense amounting to Rs. 74,527/- on an adhoc basis by presuming that 1/5th out of the expense was incurred for personal use.*
6. *That the appellant reserves the right to add, alter or amend the grounds of appeal before the appeal is decided.”*

3. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the record that despite having given various opportunities, neither any one has been attending the proceedings since 22.06.2022 nor any request is filed for adjournment of hearing of appeal on behalf of the assessee. The notices of hearing of appeal sent through speed post have been returned back unserved by the Postal Authority with remark “Addressee left without address”. Under these facts, the appeal is taken up for hearing in the absence of the assessee and is being disposed off on the basis of material available on records.

4. Facts giving rise to the present appeal are that in this case, the assessee e-filed its return of income declaring income of INR 11,43,051/- on 30.09.2011. The case was picked up for scrutiny assessment. In response to the statutory

notices, Ld. Authorized Representative (“AR”) for the assessee attended the assessment proceedings. The Assessing Officer (“AO”) while framing the assessment u/s 143(3) of the Income Tax Act, 1961 (“the Act”) vide order dated 28.03.2014, noticed that as per Form No.3CD, the Gross Profit rate worked out in negative (-4.69%). The net profit rate was worked out to 0.84% which included Duty Draw Back amounting to INR 1,12,49,901/- and foreign exchange difference of INR 23,15,565/-. He further observed that in immediate preceding year, the net profit rate was around 1.02%. The AO noticed that no books of accounts were furnished therefore, the results declared by the assessee could not be verified. The results declared by the assessee were rejected and the net profit was estimated at 1.5% of gross turnover and hence, he made addition of INR 8,01,658/- in this regard. Further, the AO noticed that there is an addition of INR 19,50,000/- in capital account of the assessee during the year. The explanation of the assessee was that the amount was received from his son from his NRE account. However, no confirmation was submitted by the assessee. The AO noticed that date of birth of the assessee’s son was 21.04.1987 and the date of issue of Passport was 13.03.2007. Therefore, the creditability of claim was not proved. Thus, he made addition of Rs.19,50,000/- u/s 68 of the Act. Further, he noticed that the assessee had claimed certain purchases. The notices sent to the concerned parties. In reply thereof, it was stated that there was no dealing with the assessee by such parties. Hence, he made addition of INR 14,99,987/- in respect of purchases made from M/s Raja Priya Tex and M/s Vivekanand Tex from Tirupur. Further, he noticed that the expenditure related to job work charges of INR

28,90,067/- could not be verified hence, he disallowed the same. The AO also made adhoc disallowances out of vehicle running and telephone expenses.

5. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, partly allowed the relief. Thereby, Ld.CIT(A) allowed tele-scoping related to trading results whereby the assessee got relief of INR 8,91,658/-.

6. Aggrieved against the order of Ld.CIT(A), the assessee has preferred the appeal before the Tribunal.

7. Apropos to Grounds of appeal, Ld. Sr. DR supported assessment order and submitted that there was no supporting evidences and the assessing authority has given a specific finding against the assessee. Thus, there is no infirmity into the impugned additions.

8. **Ground No.2** raised by the assessee is against the confirming the addition of INR 14,99,987/- made on account of bogus purchases.

9. We have heard Ld. Authorized Representatives of the parties and perused the material available on record. We find that lower authority has given a finding on facts by observing as under:-

6. *“Letter seeking information were addressed u/s 133(6) to persons from whom purchases were made. M/s Raja Priya Tex and M/s Vivekanand Tex from Tirupur have sent a reply (which was received on 04.02.2014) that they had no dealings with the assessee. The assessee was confronted with this issue vide my letter dated 28.02.2014 but it has not been rebutted. The purchase made of Rs.8,00,000/- from Raja Priya Tex and Rs.6,99,987/- from M/s.*

Vivekanand Tex are hereby treated as bogus purchases debited only to reduce the incidence of tax. The amount of Rs.14,99,987/- is added to assessee's income from undisclosed sources and brought to tax accordingly.”

(Addition Rs.14,99,987/-)

10. The assessee could not rebut this finding by placing any contrary material on record. We therefore, do not see any reason to interfere in the finding of Ld.CIT(A), the same is hereby, affirmed. Ground No.2 raised by the assessee are hence, dismissed.

11. **Ground No.3** raised by the assessee is against the confirmation of addition made on account of unverified job work charges.

12. The lower authorities have given a finding on fact by observing that concerned parties were not found. The assessee has not brought any material to prove veracity of his claim. It was incumbent upon the assessee to prove the correctness and veracity of expenditure incurred by him. In the absence of such any credible evidence, we do not see any reason to interfere in the findings of lower authorities, the same is hereby, affirmed. Ground No.3 raised by the assessee is hence, dismissed.

13. **Ground Nos. 4 & 5** raised by the assessee are against the adhoc disallowances made by the assessing authorities on account of telephone and vehicle expenses.

14. We find that lower authorities have not given any specific finding regarding the expenditure which was not verified and was found bogus. In the absence of any specific finding by the lower authorities, disallowance of such

expenditure on adhoc basis is not justified. Hence, the AO is directed to delete such disallowance. Ground Nos. 4 & 5 raised by the assessee are hence, allowed.

15. **Ground No.6** is general in nature, needs no separate adjudication hence, dismissed.

16. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 20th April, 2023.

Sd/-

**(M BALAGANESH)
ACCOUNTANT MEMBER**

** Amit Kumar **

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI