

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : B : DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITAs No.7663 & 7664/Del/2019  
Assessment Years: 2014-15 & 2015-16

Fashionable Attire (P) Ltd.,  
D-28, South Extension Part-I,  
New Delhi. – 110 049.

Vs

DCIT,  
Central Circle-2,  
Gurgaon.

PAN: AACCF3709Q

ITA No.7661 & 7662/Del/2019  
Assessment Year: 2014-15 & 2015-16

Fashionara Apparels (P) Ltd.,  
D-28, South Extension Part-I,  
New Delhi. – 110 049.

Vs.

DCIT,  
Central Circle-2,  
Gurgaon.

PAN: AACCF3680J

(Appellant)

(Respondent)

Assessee by	:	Dr. Rakesh Gupta, Shri Deepesh Garg & Shri Shrey Jain, Advocates
Revenue by	:	Shri T. James Singson, CIT, DR
Date of Hearing	:	27.04.2023
Date of Pronouncement	:	22.05.2023

ORDER

PER M. BALAGANESH, AM:

These appeals in ITAs No.7663, 7664, 7661 & 7662/Del/2019 for AY 2014-15, 2015-16 and 2014-15 respectively arise out of the consolidated order of the Commissioner of Income Tax (Appeals), Gurgaon, [hereinafter referred to as 'Ld. CIT(A)', in short] in Appeal No.407, 404,217, 216, 240, 231, 406, 403, 218, 215/CIT(A)-3/GGN/2017-18 dated 23.07.2019 against the orders of assessment passed u/s 153C r.w.s. 153A/143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 26.12.2017 by the Assessing Officer, Central Circle-II, Gurgaon (hereinafter referred to as 'Ld. AO').

2. Identical issues are involved in all these appeals and, hence, they are taken up together and disposed of by this common order for the sake of convenience.

ITA No.7661/Del/2019 [AY 2014-15 – Fashionara Apparels (P) Ltd.]

3. The assessee has raised the following grounds of appeal:-

*"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in assuming jurisdiction u/s 153C and that too for this year and further erred in passing the impugned assessment order, more so when 'satisfaction' has not been recorded by AO of the searched person and when there was no incriminating document was found.*

*2. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in assuming jurisdiction and framing the impugned assessment order u/s 153C, is bad in law and against the facts and circumstances of the case and the same is not sustainable on various legal and factual grounds.*

*3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in exercising his jurisdiction in making addition of Rs.2,03,161/- (i.e. 5% of Rs.40,63,224/-) on account*

*of alleged commission/brokerage as business income and that too without giving show cause notice in this regard and impugned addition made by Ld. CIT(A) is bad in law as no incriminating material has been found as a result of search warranting such addition and by recording incorrect facts and findings and merely on the basis of surmises and conjectures and without giving the opportunity of being heard and without observing the principles of natural justice.*

*4. That in any case and in any view of the matter, action of Ld. CIT(A) in making addition of Rs.2,03,161/- on account of alleged commission/brokerage as business income, is bad in law and against the facts and circumstances of the case and the same is outside the purview of the impugned proceedings u/s 153C of the Act.*

*5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in rejecting the books of accounts u/s 145(3) of the Act.*

*6. That in any case and in any view of the matter, addition made by Ld. CIT(A) in the impugned order are beyond jurisdiction and illegal also for the reason that these could not have been made since no incriminating material has been found as a result of search.*

*7. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in passing the impugned assessment order without there being requisite approval in terms of section 153D and in any case approval if any is mechanical without application of mind and is no approval in the eyes of law.*

*8. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234B of Income Tax Act, 1961.*

*9. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other."*

4. We have heard the rival submissions and perused the material available on record. At the outset, we find that no arguments were advanced by the Id. AR before us on the legal issues raised in the grounds in view of the fact that the

issue on merits is covered in favour of the assessee. Accordingly, we proceed to adjudicate the issue on merits alone in this appeal. The assessee is engaged in the business of purchase/sale of fabric/cloth. A search and seizure action was conducted on 29.04.2015 at the various premises in Orient Craft group of cases pursuant to a warrant of authorization issued by the Principal Director of Income-tax (Investigations), Chandigarh. During the course of search proceedings at the premises at 7-D, Maruti Industrial Area, Sector-18, Gurgaon, belonging to M/s Orient Craft Ltd., documents/books of account pertaining to the assessee were found and seized. The details of documents found and seized are as under:-

*"Computerised books of account and hard copy of trial balance vide seized document page No.45/Annexure A-7/Party No.OS-I"*

5. During the course of search proceedings, books of account of various other concerns were also found in the premises of Orient Craft Ltd., which are as under:-

<b>S. No.</b>	<b>Name of the Company</b>	<b>Details of documents seized</b>	<b>Page No./ Annexure No. / Party No.</b>
1.	Super Connections India Pvt. Ltd.	Computerized Books of A/c and Hard Copy of Trial Balance	47, 48 & 49/A-7/ OS-I

2.	Fashionable Attire Pvt. Ltd.	Computerized Books of A/c and Hard Copy of Trial Balance	46/A-7/ OS-I
3.	Modernistic Attire Pvt. Ltd.	Computerized Books of A/c and Hard Copy of Trial Balance	44/A-7/ OS-I
4.	Trendy Attire Pvt. Ltd.	Computerized Books of A/c and Hard Copy of Trial Balance	41/A-7/ OS-I
5.	Starline Clothing Pvt. Ltd.	Computerized Books of A/c and Hard Copy of Trial Balance	42/A-7/ OS-I
6.	Stylish Clothing Pvt. Ltd.	Computerized Books of A/c and Hard Copy of Trial Balance	43/A-7/ OS-I

6. It was further found that M/s Orient Craft Ltd. had booked purchases from the assessee and the concerns mentioned above which are in turn booking purchases from entities being controlled and managed by Shri Sanjay Jindal and have been alleged to be mere paper entities. By placing reliance on various seized documents and various statements recorded during the course of search and thereafter, the Id. AO treated the assessee company as a paper entity operated by Orient Craft Ltd., for the purpose of evasion of tax and, accordingly, rejected the books of account of the assessee u/s 145 of the Act and disallowed the entire expenses claimed by the assessee in the sum of Rs.40,63,224/- on protective basis. The Id. AO also observed that substantive addition has been made in the hands of Orient Craft Ltd. in respect of sales made by the assessee company to Orient Craft Ltd.

7. The Id.CIT(A) passed a consolidated order dated 23.07.2019 in respect of Fashion Attire (P) Ltd. (the assessee herein), Modernistic Attire Pvt. Ltd., Trends

Attire Pvt. Ltd., Fashionara Apparels and Starline Clothing Pvt. Ltd. for AY 2014-15 and 2015-16. In the said consolidated order, the Id.CIT(A) converted the protective addition into substantive addition in the hands of the assessee, however, restricted the addition to the extent of 5% thereon as the assessee company would have earned only commission income @ 5% thereon being a paper entity.

8. From the above narration of facts, the short point that arises for our consideration is as to whether pursuant to the findings recorded in the search proceedings of Orient Craft Ltd., whether the purchases made by Orient Craft Ltd. from the assessee and other concerns could be treated as genuine or not. This issue was subject matter of detailed adjudication by this Tribunal in the case of Orient Craft Ltd. vs. DCIT in ITA Nos.3311 and 5038/Del/2019 for AY 2014-15 dated 24.09.2021, wherein the purchases made by Orient Craft Ltd. had been accepted as genuine. The relevant observations in the order of this Tribunal are reproduced hereunder:-

*"46. It was submitted that assessee has purchased fabric from six companies namely M/s Trendy Attire P Ltd of Rs. 35,75,230/-, M/S Fashionable Attire P Ltd of Rs. 40,66,816/-, Fashionara Apparel P Ltd of Rs.40,57,278/-, M/s Modernistic Attire P Ltd of Rs. 30,42,448/-, M/s Starline clothing P Ltd of Rs.37,69,943/- & M/s Super Connection India P. Ltd. of Rs. 26,48,09,191/-, during the year which comes to an aggregate amount of Rs. 28,33,20,906/-, which is evidenced by the copies of purchase invoices, copy of statement of account in respect of said entities in the books of appellant company at (PB 2641-2642, 2643-2822, 1671-1738, 1746-1764 which are already enclosed in the paper book for A.Y. 2013-14 in assessee's own case), and also statement of account in the books of said entities i.e. six companies at (PB 1821-1874 & 1884-1902 which are already enclosed in the paper book for A.Y. 2013-14), which would show that the payments have been made to said entities through banking channel. It is further important to submit that sale made by the said entities to the assessee company has been accepted in the*

*assessment of said companies. Copy of assessment order of said six entities are enclosed in the paper book at PB 1491-1617 together with copy of acknowledgment of return, computation of income, audited balance sheet, profit & loss account together with all annexure are also enclosed at PB 200-227 & 228-299. PB 179-199 is the copy of acknowledgment of return, computation of income, audited balance sheet, profit & loss account and tax audit report for A.Y. 2013-14 of M/s Super Connection India P Ltd. in support of this fact.*

*47. It was also submitted that a detailed submissions vide letters dated 11.12.2017 (PB 174-176), 12.12.2017 (PB 177-178) was made during the course of assessment proceeding a copy of which is enclosed in the paper book and which has been reproduced in the assessment order also, in which and along with which detailed justification was made with the help of several annexure that export would not have been possible by the assessee, if it had not purchased the goods from above said companies. In fact input output ratio and industry consumption were also furnished at PB 1906-1907 (which is already enclosed in the paper book for A.Y. 2013-14). All the annexure referred in that letter are also enclosed in the paper book to show that purchases made by the assessee from six companies could not be disbelieved at PB 1617-2460, PB 2463-2936 (which is already enclosed in the paper book for A.Y. 2013-14).*

*PB 1671-1764 are the ledger accounts of M/s, Fashionable Attire P Ltd, M/s Fashionara Apparel P Ltd, M/s Modernistic Attire P Ltd, M/s Starline clothing P Ltd, M/s Trendy Attire P Ltd & M/s Super Connection India P. Ltd in the books of appellant company, (which are already enclosed in the paper book for A.Y. 2013-14).*

*PB 1821-1902 is the ledger account of appellant company in the books six companies namely M/s, Fashionable Attire P Ltd, M/s Fashionara Apparel P Ltd, M/s Modernistic Attire P Ltd, M/s Starline clothing P Ltd, M/s Trendy Attire P Ltd & M/s Super Connection India P. Ltd, (which is already enclosed in the paper book for A.Y. 2013-14).*

*PB 1903 is the detailed chart showing the year-wise purchases from said six companies, (which is already enclosed in the paper book for A.Y. 2013-14).*

*PB 1906-1907 is the category-wise sheet showing total sales in pieces on sample basis and consumption of fabric along with standard input / output norms (which is already enclosed in the paper book for A.Y. 2013-14).*

*PB 1910 is the reconciliation of purchase quantity and value of fabric in the books of appellant showing opening stock of fabric purchase, consumption, cost of fabric sold and closing stock (which is already enclosed in the paper book for A.Y. 2013-14 in assessee's own case).*

*PB 1911-1958 is the detailed chart showing the standard input/output ratio, as prescribed by the Standard Input/Output Norms under hand book of procedure Volume II of foreign trade policy, published by the Ministry of Commerce (which is already enclosed in the paper book for A.Y. 2013-14).*

*PB 1959 is the detail of comparison between other garment exporter and the appellant company for material consumption as a percentage of sales (which is already enclosed in the paper book for A.Y. 2013-14).*

***48. Therefore, purchases made by the assessee from M/s, Fashionable Attire P Ltd, M/s Fashionara Apparel P Ltd, M/s Modernistic Attire P Ltd, M/s Starline clothing P Ltd, M/s Trendy Attire P Ltd & M/s Super Connection India P. Ltd were the genuine purchases and the addition made may therefore please be deleted.***

*Adverse observations made by Ld. A.O. are met as under:-*

*1. Ld. AO has mentioned at pages 5.1.2 of the assessment order that the bank account of the supplier M/s Trendy Attire P. Ltd. revealed that it transferred payments on the same day of receipt and according to Ld. A.O. the said supplier as entry providing company to the appellant.*

*In reply, it was submitted that in so far as the appellant is concerned since purchases were made by the appellant from M/s Trendy Attire P. Ltd., the payments were made against the purchases and if the said concern in turn made payments on the same day, how can that be held against the assessee. Therefore, to find this usual business phenomenon as something which is adverse to the appellant is beyond comprehension and therefore this observation of Ld. AO may please be ignored and rejected.*

*2. Ld. A.O. has mentioned in para 5.1.3 to 5.1.5, 5.2 to 5.2.5, of the assessment order that the statements of the directors*

*namely Sh. Vijender Kumar Jain, Sh. Vijay Kumar Sharma and Sh. Balkishan Luthra, Sh. Ashok Kumar Sharma, were recorded on 29.04.2015, which show that they did not have knowledge of the affairs of the company.*

*In reply, it was submitted that assessee was not made aware at any point of time during assessment proceeding that any statement of these two persons were recorded nor the copies of such statements were supplied to the assessee. So much so copies of such statements have not been made part of the assessment order. Therefore such statements have to be excluded from consideration in view of Hon'ble Supreme Court decision in the case of Kishnichand Chellaram vs. CIT 125 ITR 713. Moreover, no opportunity of cross examination has been allowed to the assessee for that reason also such settlements have to be excluded from consideration. It has also come to the notice of the appellant that such statements were recorded at the back of the assessee and therefore under what circumstances, these statements were given is not known to the assessee. According to the appellant there is no reason why should the directors of M/s Trendy Attire Pvt. Ltd., would have no knowledge of the affairs of TAPL. Therefore this objection of Ld. A.O. may please be rejected.*

*3. Ld. AO has mentioned in para 5.2, 5.4.2, 5.5.2 & 5.6.4 of the assessment order that post search enquiries reveals that the assessee company made purchases from various companies and these companies no actual material has been supplied.*

*In reply, it was submitted that overwhelming evidences have been furnished substantiating the business done by the assessee which have not been disputed by Ld. AO. Further, the Ld. AO has failed to bring on record any material or evidence to corroborate arrive at the conclusion that purchases from various companies and these companies no actual material has been supplied. The allegations made by Ld. AO are baseless and this is evident from the very fact he has proceeded to assess the income on the basis of return filed by the assessee company. Therefore, the observation made by Ld. AO that the purchases made by the assessee company is bogus and is baseless and without any basis, material or evidence.*

*4. Ld. A.O. has mentioned in para 5.6.2 of the assessment order that statements of the directors namely Sh. AkshayDhanda and Sh. Ajay Nagpal were recorded on 22.06.2015, which show that they did not have knowledge of the affairs of the company.*

*In reply, it was submitted that assessee was not made aware at any point of time during assessment proceeding that any statement of these two persons were recorded nor the copies of such statements were supplied to the assessee. So much so copies of such statements have not been made part of the assessment order even though it has been mentioned that they are enclosed as Annexure B and Annexure C at PB 1903, 1906-1907 (which is already enclosed in the paper book for A.Y. 2013-14 in assessee's own case). Therefore such statements have to be excluded from consideration in view of Hon'ble Supreme Court decision in the case of Kishnichand Chellaram vs. CIT 125 ITR 713. Moreover, no opportunity of cross examination has been allowed to the assessee for that reason also such settlements have to be excluded from consideration. It has also come to the notice of the appellant that such statements were recorded at the back of the assessee and by calling these persons in the income tax department and therefore under what circumstances, these statements were given is not known to the assessee. According to the appellant there is no reason why should the directors of M/s Super Connection India P. Ltd. (SCIPL), would have no knowledge of the affairs of SCIPL. Therefore this objection of Ld. A.O. may please be rejected.*

*5. Ld. A.O. has also mentioned in para 5.6.2 of the assessment order that Sh. SudhirDhingra, director of the appellant company has provided personal guarantee for the loan raised by M/s SCIPL from Kotak Mahindra bank.*

*In reply, it was submitted that what is sought to be conveyed by Ld. A.O. from this observation has not been clear. Business relationship of the appellant company with M/s SCIPL was there and therefore, out of business expediency, if guarantee was extended by Mr. Dhingra to M/s SCIPL, nothing adverse can be read into it.*

*6. Ld. A.O. has mentioned his conclusions in this para i.e. para 5.6.2 of the assessment order regarding Sh. AkshayDhanda and Sh. Ajay Nagpal on the basis of their statements.*

*In reply, it was submitted that first of all as submitted above, these statements having been recorded at the back of the assessee and copies of statements having not been supplied, have to be excluded from consideration. Even if these statements are taken at their face value then also it is submitted that there is nothing which establishes that sales made by M/s SCIPL made by the assessee*

*company is not genuine. Mr. Dhanda being an employee of a group concern cannot be read against the assessee as there is no bar from an employee of the group concern running his own company. Since major sales of M/s SCIPL are to the assessee and M/s SCIPL sought help from the appellant company to maintain its books of accounts and if in that process employee of the appellant company if helped M/s SCIPL to maintain its books of accounts at the premises of the appellant company only for the sake of mutual convenience and because of cost considerations mountain cannot be made out of the mole hills.*

*In other words inferences drawn by Ld. A.O. from the statements of Mr. Dhanda and Mr. Nagpal do not establish that the sales made by M/s SCIPL to the assessee was not genuine, more so when such sales by M/s SCIPL and purchases by the appellant are supported by above mentioned comprehensive evidences and payments having been received / paid through banking channel and more so when the sales made by M/s SCIPL have been accepted by income tax department itself in the assessment of SCIPL, it is submitted above.*

*7. Ld. A.O. has mentioned in para 5.6.3,6.4, 6.5, of the assessment order that bulk of purchases were made by M/s SCIPL from the entities controlled by Sh. Sanjay Jindal and since amount remitted were withdrawn in cash it shows that ultimate beneficiary was the appellant company and entities controlled by Sh. Sanjay Jindal were mere entry providers.*

*In reply, it was submitted that these observations of Ld. A.O. are mere surmises and conjectures and there is no cause and effect relationship. If purchases have been made from various entities of Sh. Sanjay Jindal how could that fact alone be taken as the basis to hold that purchases made by the appellant from such entities of Sh. Sanjay Jindal are not genuine. Similarly, if the payment made by these entities from M/s Akansha Fashion and M/s Jindal Fashion are withdrawn in cash by the supplier, how could it establish that beneficiary was none other than the appellant and the suppliers were entry providers. In fact entire case made out by Ld. A.O. seems to have proceeded on a preconceived notion that purchases made by the appellant are nothing but bogus purchases. It is settled law that suspicion howsoever grave cannot par-take the character of evidence. It is submitted at the cost of repetition that assessee has established the genuineness of the purchases with the help of direct and documentary evidences on the one hand and*

*circumstantial evidences on the other. Detailed submissions was made in the assessment proceeding, which is reproduced in the assessment order by which appellant has sought to show and submit that the exports could not have been possible but for the purchases made by the assessee and in this regard assessee has sought to prove this by filing quantitative reconciliation standard input / output norms (PB 1906-1907, 1911-1958) (which is already enclosed in the paper book for A.Y. 2013-14), comparison between other garments export so and in so forth (PB 1959) (which is already enclosed in the paper book for A.Y. 2013-14). Therefore, the action of Ld. A.O. in making the impugned addition of Rs. 28,33,20,906/- is neither correct of fact in law and the same may please be deleted.*

*8. Ld. AO has mentioned several adverse things regarding the above six suppliers based upon some alleged enquiries made.*

*In reply, it would suffice to say that so far as above enquiries were not confronted to the appellant.*

*Moreover, during the course of impugned assessment proceeding also in our reply dated 11.12.2017 (PB 174-176) filed to Ld. A.O., we made out specifically and we furnished such details in Annexure G, which is enclosed in the paper book at PB 2196—2460, (which is already enclosed in the paper book for A.Y. 2013-14) that the said supplier was selling the fabric to the appellant company and the material / fabric purchased from the M/s SCIPL has been used in production garments, which have been exported by the assessee company to various parties.*

*Therefore, all the adverse observations made by Ld. AO in the assessment order in respect of the purchases made by the appellant from the above said supplier are incorrect and allegations against the appellant are denied and it is requested that the purchases made by the appellant in the year under appeal may please be accepted.*

*49. In view of the above pleadings and evidences filed by the assessee the disallowance made in the assessment order and confirmed by CIT(A) is not sustainable on merit. Assessee has proved that the material was purchased from the vendors involved here and payments have been made through banking channel. Other evidences as referred clearly establish the purchase made by the assessee. We do not want to discuss each and every evidence and it would suffice to hold that in the light of these evidences which have not been rebutted with the help of any cogent*

*material, purchases made by the assessee from the above said vendors cannot be disbelieved. The adverse observations made by the A.O. in the assessment order have been met by the assessee one by one and paper pages 1702-1708 reproduced also above by us and we have taken ourselves to these adverse observations and response of the assessee and we agree with the Ld. Counsel for the assessee that the adverse observations made by the A.O. are not of substance and misplaced on facts. CIT(A) too has mentioned in his order the adverse observations of the A.O. only which in our opinion are misplaced on facts. Contention of CIT(A) that evidence filed by the assessee self-serving documents and circumstantial evidence leads to the conclusion of A.O. It would be enough for us to say that voluminous documentary evidences filed by the assessee are clearly establishing the genuineness of purchases fabric from M/s Super Connection India P. Ltd. & other vendor companies. Other indicators such as percentage ratio of material to sale etc also establish the genuineness of the purchases. We do not agree with the observations made by the first appellate authority. In our considered opinion, assessee has been successful to discharge the burden of proving the purchase from M/s Super Connection India P Ltd. & other vendor companies. In the result, ground no. 11 to 14 of the assessee's appeal of the assessee are allowed and the aggregate addition of Rs. 28,33,20,906/- is deleted. (emphasis supplied by us)"*

9. Moreover, we further find that in the case of Trendy Attire (P) Ltd., which is one of the concerns from whom Orient Craft Ltd. had made purchases and wherein similar addition was made by the AO and CIT(A) as was made in the case of the assessee herein, the Tribunal in *ITAs No.7659 & 7660/Del/2019 for AYs 2014-15 & 2015-16, vide order dated 30.06.2022*, had held as under:-

*"5. On behalf of the assessee it was submitted by the Ld. AR, that in the case of M/s. Orient Craft Ltd., the substantive addition have been deleted therefore, the additions in the hands of appellant cannot survive. Ld. DR however, submitted that as Ld. CIT(A) had observed that the additions in the hands of assessee are being deleted on protective basis and will revive in case, substantive addition is deleted, therefore, assessee cannot take advantage of the ITAT order in favour of M/s. M/s. Orient Craft Ltd..*

*6. Appreciating the matter on record it can be observed that in ITAT order dated 24.09.2021 in ITA no. 3312/Del/2019 for assessment year 2015-16*

*and ITA No. 3311/Del./2019 for assessment year 2014-15 the substantive additions in the hands of M/s. Orient Craft Ltd. have been deleted. It can be observed that in para no. 49 in ITA No. 3311/Del/2019 and para no. 21 of ITA no. 3312/Del/2019 it has been held that M/s. Orient Craft Ltd. has proved that the material was purchased from vendors involved and payments have been made through banking channel. It was further held that the voluminous documentary evidences filed by M/s. Orient Craft Ltd. clearly established the genuineness of purchase of fabric from the present assessee / appellant.*

*6.1 That being so there is no force in the contention of the Ld. DR that if substantive additions are deleted then as per orders of Id. CIT(A) the protective assessment in the hands of present assessee / appellant will still revive. In fact the findings arrived by the Tribunal in case of M/s. Orient Craft Ltd. are to the effect that the purchases made from the present assessee were genuine therefore, the Bench is of firm view that protective additions in the hands of the assessee/ appellant was never sustainable.*

*7. In the light of aforesaid facts and circumstances the order of Ld. CIT(A) making additions on account of alleged commission / brokerage as business income is not sustainable. Consequently, ground no. 3 and 4 are allowed while remaining grounds are disposed as not pressed. The appeals are allowed and the impugned order of Ld. CIT(A) making additions of Rs.1,78,779/- in the assessment year 2014-15 and Rs. 6,13,866/- in the assessment year 2015-16 are set aside."*

10. As stated earlier, similar observations were made in the case of the assessee herein by the Id.CIT(A) in page 32 of his order. In view of the identical facts in the case of the assessee herein, the decision rendered by this Tribunal in the case of Trendy Attire (P) Ltd. (*supra*) shall apply, *mutatis mutandis*, in the case of the assessee herein also. Accordingly, the grounds raised by the assessee on merits of the addition and on rejection of books of account u/s 145(3) of the Act are allowed.

11. Since the relief is granted on merits to the assessee, the other legal grounds raised by the assessee are not adjudicated and they are left open.

12. Ground No.8 raised by the assessee is on the chargeability of interest u/s 234B of the Act which is consequential in nature.

13. In the result, the appeal of the assessee in the case of Fashionara Apparels Pvt. Ltd. in ITA No.7661/Del/2019 for AY 2014-15 is allowed.

14. Both the parties mutually agreed that the grounds raised by the assessee are exactly identical in respect of other appeals listed as above. Hence, the decision rendered by us in ITA No.7661/Del/2019 for AY 2014-15 shall apply *mutatis mutandis* to ITAs No.7662/Del/2019 (Fashionara Apparels Pvt. Ltd., for AY 2015-16) and ITAs No.7663 & 7664/Del/2019 (for AYs 2014-15 and 2015-16 respectively) in the case of Fashionable Attire Pvt. Ltd.

15. To sum up, all the appeals of the assessee are allowed.

Order pronounced in the open court on 22.05.2023

(C.M. GARG)  
JUDICIAL MEMBER

(M. BALAGANESH)  
ACCOUNTANT MEMBER

Dated: 22<sup>nd</sup> May, 2023.

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi