

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.59/Asr/2023
Assessment Year: 2017-18**

Shri Amandeep Singh, Kapurthala [PAN:- EVJPS6553L] (Appellant)	Vs.	DCIT,CC-1 Jalandhar (Respondent)
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Appellant by	Sh. K.C. Gupta, Adv.
Respondent by	Sh. Hitendra Bhauraoji Ninawe, CIT DR.

Date of Hearing	12.06.2023
Date of Pronouncement	14.06.2023

ORDER

Per: Anikesh Banerjee, JM:

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income-tax (Appeals)-5, Ludhiana [in brevity of CIT(A)], order passed u/s. 250(6) of the Income-tax Act, 1961 (in brevity the Act), for assessment year 2017-18. The impugned order was emanated from the order of

the Id. Dy. Commissioner of Income-tax, Central Circle -I, Jalandhar (in brevity the AO), order passed u/s. 153A r.w.s. 144 of the Act.

2. The assessee has taken the following grounds:

“1. The learned CIT(A) On the Facts and law on the point has erred in the making an enhancement in income of Rs.265651/- alleged to be unexplained money u/s. 69A of the Act instead of considering it as a business receipts u/s. 44AD to be tax3d @8% or max up to 25.52% as declared by the appellant in the Return of Income for the relevant Assessment Year.

(ii) That the enhancement is illegal since it has been made without serving a notice on the appellant before enhancement of income.

2. That the learned CIT(A) has further erred on the facts and law on the point in sustaining the addition of Rs.42560/- alleged to be unverifiable creditors without any basis ignoring the fact that the return was filed u/s. 44AD and the expenses to the extent of 92% are allowed by section itself on presumptive basis. The CIT(A) has failed to appreciate that Rs.42560/- are trade creditors as stood on account of the expenses specifically to be allowed u/s. 44AD.

3. *Any other ground may be urged with the permission of Hon'ble Tribunal."*

3. The brief fact of the case is that assessment was completed with an addition amount of Rs.9,28,752/-, Rs. 42,560/- and Rs. 1,05,900/- in different heads. Aggrieved assessee filed an appeal before the CIT(A). CIT(A) had deleted all the additions except unverified sundry creditors amount to Rs. 42,560/-. The ld. CIT(A) had enhanced amount to Rs.2,65,651/- u/s. 69A of the Act in appeal proceeding. Being aggrieved assessee filed an appeal before us by challenging the order of appeal.

4. The ld. AR for the assessee filed written submission which is kept in the record. The ld. AR argued that the assessee filed return u/s. 44AD of the Act by declaring the net profit @ 8% on total turnover. The ld. CIT(A) issued show cause notice against the enhancement of income u/s. 69A amount to Rs. 2.66lac. The ld. CIT(A) observed that the assessee has gross receipts during the impugned assessment year amount to Rs.12,46,982/-. Whereas in bank account, amount was deposited at Rs.15,12,633/-. The excess amount of Rs.2,65,651/- was duly deposited without any explanation. Accordingly, the addition was confirmed at Rs.2,65,651/-.

4.1 The ld. AR further pressed that assessee is filing the return as per provisions of section 44AD of the Act and not liable to maintain the books

accounts u/s. 44AB of the Act. The amount of Rs.42,560/- was un-verified liability. The assessee claimed that the liability is not related to impugned assessment year. The Id. AR argued that the Id. CIT(A) has violated the provisions of section 251(2) which is extracted as below:

“251 (2) The [Commissioner (Appeals)] shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.”

5. The Id. DR vehemently argued and relied on the order of the Revenue Authority.

6. We heard the rival submissions and relied on the documents available on the record. The Id. CIT(A) had enhanced the amount of Rs. 2,65,651/- without issuing any show cause notice to the assessee. The issue was new for assessee. The assessee claimed that in the earlier year, the assessee deposited less in bank account in respect to gross receipt. The assessee claimed that the assessee submitted a letter, which was duly placed before the CIT(A) for A.Y. 2016-17 and explained that gross receipt was Rs.10,52,296/- whereas the credit in the bank account is Rs.55,984/-. The Id. AR for assessee claimed that the assessee filed the return in presumptive scheme and placed that the said sundry creditors related to earlier years. Accordingly, we find that order of the

CIT(A) is not legal for enhancement of amount of Rs.2,65,651/- and the confirming the addition of the Sundry creditors Rs.42,560/- which are liable to be quashed.

7. In the result, the appeal bearing **ITA no.59/ASR/2023** is allowed.

Order pronounced in the open court on 14.06.2023

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

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By order