

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

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

ITA No.5042, 5043, 5032 & 5068/Del/2017  
Assessment Year: 2008-09, 2009-10, 2010-11 & 2011-12

<b>ACIT CC-19 NEW DELHI</b>	<b>Vs</b>	<b>Fine Aromatics Plot No.47-B and 48-A/B, Birpur Industrial Estates, Bari Brahmana, Jammu (J &amp; K) PAN No.AABFF4186D</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. T. James, Singson, CIT DR
Respondent by	Sh. V.K. Bindal, CA Ms.Rinky, ITP

Date of hearing:	20/07/2023
Date of Pronouncement:	21/07/2023

**ORDER**

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

ITA No.5042/Del/2017, 5043/Del/2017, 5032/Del/2017 and 5068/Del/2017 are four separate appeals by the revenue preferred against the order of the CIT(A)-27 dated 30.05.2017 pertaining to A.Y.2008-09, 2009-10, 2010-11 and 2011-12.

2. Since common grievance is involved in the captioned appeals they were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. For the sake of our convenience and brevity we have considered the following grounds taken in ITA No.5042/Del/2017 A.Y.2008-09 :-

1) *“The CIT (A) has erred on facts and in law in law and on facts in allowing the appeal of the assessee without truly appreciating the factual matrix of the case.*

2) *The Ld. CIT(A) has erred in law in relying on Kabul Chawla 61 taxman.com 412(Delhi) and in holding that completed assessment could not have been interfered by the AO by making the assessment u/s 153A of the Act does not stipulates any such conditionality. In the relied case of CIT Vs Kabul Chawla, ITA No. 707/2014 and others dated*

*28.08.2015 (2015) 61 taxman.com 412(Delhi) departments SLP is pending in Supreme Court and decision is still awaited.*

3) *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts in deleting the addition of Rs.42,25,06,059/- made by AO on account of bogus purchase from M/s AK Trading Co. & from M/s Jai Bharat Traders.*

4) *The Ld. CIT(A) has erred in accepting assessee contention that the Supplier of goods have submitted the reply/confirmation in respect to notice u/s 133(6) when the Assessing Officer specifically mentioned that no reply were filed in response to notice u/s 133(6), therefore, assumption of the contention that they have filed the reply without verifying from the assessment records or referring the matter to AO is clear violation of rule 46A of the I.T. Act being additional evidence accepted in appellate proceedings.*

5) *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts in deleting the addition of Rs. 10,83,70,818/- made by AO on account of disallowance of deduction u/s 80IB(4) of the Act.*

6) *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts in deleting the addition of Rs.52,90,304/- on account of disallowance of manufacturing expenses.*

7) *The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts allowing assessee's plea for rejection of books of account u/s. 145(3) of the IT act, 1961.*

8) (a) *The order of the CIT(Appeals) is erroneous and not tenable in law and on.*

(b) *The appellant craves leave to add, alter or amend any/ all of the grounds of appeal before or during the course of the hearing of the appeal."*

4. Grievance raised vide ground No.2 goes to the root of the matter as the additions / disallowances made by the AO are devoid of any incriminating material found at the time of search, the CIT(A) respectfully following the binding decision of Hon'ble Jurisdictional High Court of Delhi in the case of Kabul Chawla 61 taxmann.com 412 quashed the assessment order.

5. The Hon'ble Apex Court in the case of Abhisar Buildwell 454 ITR 212 has upheld the decision of the Hon'ble Delhi High Court, therefore, there remain no grievance for the revenue now.

6. Without going into the merits of the case we do not find any error or infirmity in the findings of the CIT(A) qua ground No.2, therefore, the captioned appeals by the revenue are dismissed.

7. Since the assessment orders have been annulled we do not find it necessary to dwell into the merits of the case.

Order pronounced in the open court on 21.07.2023.

Sd/-  
**[ANUBHAV SHARMA]**  
**JUDICIAL MEMBER**

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: .07.2023

\*Neha\*

Copy forwarded to:

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

Asst. Registrar  
ITAT, New Delhi