

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH.KUL BHARAT, JUDICIAL MEMBER**

ITA No.8250/Del/2019  
Assessment Year: 2010-11

<b>DCIT Circle -14 (2) New Delhi</b>	<b>Vs</b>	<b>Kortek Electronics (India)Ltd. 133, Vishal Tower, District Centre, Janakpuri, New Delhi PAN No.AABCK5593N</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Munesh Rajani, Sr. DR
Respondent by	Ms. Ananya Kapoor, Advocate

Date of hearing:	28/08/2023
Date of Pronouncement:	28/08/2023

**ORDER**

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

This appeal by the revenue is preferred against the order of the CIT(A)-5, New Delhi dated 29.07.2019 pertaining to A.Y. 2010-11.

2. The grievance of the revenue read as under:-

1. *That on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in deleting the addition of Rs.6,86,84,246/-.*

2. *That on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in restricting the disallowance of Rs.3,50,000/- instead of Rs.7,00,000/- made on account of miscellaneous expenses.*

3. *That the appellant craves leave to add, alter amend or forego any ground(s) of the appeal raised above at the time of hearing.*

3. Briefly stated the facts of the case are that the assessee is engaged in the business of manufacturing of electronics goods and components and Set Top Box. Return for the year was electronically filed on 30.09.2010 declaring income of Rs.20,28,59,210/-. The return was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee.

4. While scrutinizing the return the AO found that the assessee has shown GP rate of 11.25% against the turnover of Rs.4438110526/-. The AO further noticed that in the immediately preceding year the assessee has shown GP rate of 12.8% against the turnover of Rs.5155725007/-. The assessee was asked to justify the fall in the GP rate by giving item wise purchase detail of raw-material and selling price of finished goods alongwith justification of increase in the manufacturing expenses. Since the

factory is closed from 17.09.2013 the Counsel showed his inability stating that all the book of accounts and documents are in the premises and, therefore, could not be produced. The AO applied GP rate of 12.8% and made addition of Rs.68684246/-.

5. Proceeding further the AO disallowed of Rs.7,00,000/- out of miscellaneous expenses, freight transport and distribution expenses and repair and maintenance expenses.

6. The assessee challenged the additions before the CIT(A) and produce the book of accounts and other related documents/ evidences in support of its trading results. The CIT(A) issued directions to the AO to submit a factual report after examination of the documents. The AO submitted his report vide letter dated 25.10.2018 and admitted that the assessee has submitted copies of vouchers, copy of invoices and other documents/ evidences in respect of claim of expenditure.

7. After considering the submissions and the remand report and after the verification of book of accounts by the AO the CIT(A) deleted the additions made on account of low GP rate. In so far as disallowance of miscellaneous and other expenditure of Rs. 7 lacs is concerned the CIT(A) on facts restricted the disallowance to Rs. 3,50,000/-.

8. Before us the DR strongly supported the findings of the AO. The Counsel for the assessee reiterated what has been stated

before the lower authorities and furnished the following chart of trading results :-

	Financial Year				
	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012
Sales	3,69,41,02,265	5,15,57,25,007	4,43,81,10,526	5,16,27,38,509	3,35,46,40,604
Gross Profit	37,49,25,563	66,00,79,793	49,93,93,901	31,60,67,331	24,62,74,269
Gross Profit/Turnover (%)	10.15	12.80	11.25	6.12	7.34

9. We have carefully considered the orders of the authorities below. It is true that at the assessment stage the assessee did not produce books of account and related documents/ evidences but it is equally true that before the first appellate authorities the assessee submitted all the evidences alongwith books of account. It is an undisputed fact that the CIT(A) called for a remand report directing the AO to examine the book of accounts and other related documents.

10. We find that not only the AO examined the book of accounts alongwith bills and vouchers but also accepted the same. On these facts we do not find any reason to interfere with the findings of the CIT(A). The ground No.1 is dismissed.

11. In so far as ground No.2 is concerned we find that the CIT(A) has restricted the disallowance considering the facts of the case to Rs.3,50,000/- which calls for no interference.

12. In the result, the appeal of the revenue is dismissed.

13. Decision announced in the open court on 28.08.2023.

Sd/-  
**[KUL BHARAT]**  
**JUDICIAL MEMBER**

Dated: .08.2023

\*Neha\*

Copy forwarded to:

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

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

Asst. Registrar  
ITAT, New Delhi