

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

**Before Shri Saktijit Dey, Hon'ble Vice President
&
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 9634/Del/2019 : Asstt. Year: 2010-11

ITO, Ward-36(6), New Delhi	Vs	Ram Niwas Sharma, SF-3, Balaji Bhawan Apartment, Upkar Colony, Sant Nagar, Burari, New Delhi 110048
(APPELLANT)		(RESPONDENT)
PAN No. BKCP5 2917 P		

**Assessee by : Sh. Aditya Kaushik, CA
Revenue by : Sh. Amit Katoch, Sr. DR**

Date of Hearing: 03.10.2023	Date of Pronouncement: 07.12.2023
------------------------------------	------------------------------------------

ORDER

Per Dr. B. R. R. Kumar:-

The present appeal has been filed by the Revenue against the order of Ld. CIT(A)-13, New Delhi dated 14.08.2019.

2. The Revenue has raised the following grounds of appeal are as under:-

1. *Whether on facts and in circumstances of the case, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 1,89,38,299/- out of the total addition of Rs. 2,03,29,260/- ignoring the fact that the assessee has turnover of Rs. 2,03,29,260/- and filed ITR u/s 44AD in which turnover limit is Rs. 40,00,000/-.*

2. *Whether on facts and in circumstances of the case, the Ld. CIT (A) erred in determining income @ 8% of turnover of Rs. 2,03,29,260/- ignoring the fact that assessee is covered under compulsory audit u/s 44AB of the I.T. Act, 1961.*

3. The AO made addition of Rs. 203,29,260/- u/s. 68 in the Assessment Order passed u/s. 147/143. The addition has been deleted by the Id. CIT(A) considering 8% as the profit earned out of these cash transactions.

4. Aggrieved, the Revenue filed appeal before the ITAT.

5. Heard the arguments of both the parties and perused the material available on record.

6. The assessee is a dealer of Footwear in the area of karol bagh doing business at in a small scale with a manpower of three sales executives to display the products and sell them at a wholesale price after procuring shoes and related items in different states. The major business transaction is cash based as the customers are regular walk-in customers in the financial year 2009-10, the year in which the credit card or digital transactions were not the normal tendency.

7. The assessee was purchasing and selling the products through the support of sales executives and the cash transactions done are regularly deposited in the bank account. For that purpose the assessee has opened bank accounts with Axis Bank and ICICI Bank. The Id. CIT(A) has duly examined balance sheet and profit & loss account statement along with all the bank statements wherein the deposits and the withdrawals showing the small and regular transactions.

8. In the similar ground the case for the AY 2011-12 was also selected for assessment under section 147 in which the cash transaction was of approx. to 2 crore has being treated as the

part of income and allowed all the expenditure incurred. The Id. CIT(A) has examined proof of business along with details of sale/purchase coupled with necessary documentary evidences. Before the Id. CIT(A), the appellant has submitted invoices of sale/purchase giving description of goods (shoes), quantity, rate, amount and date along with copy of membership certificate issued by Karol Bagh Wholesale Footwear Association for the period 2009-10, which prima facie establishes that the appellant is in the business of trading of footwear.

9. A perusal of the bank account statement shows frequent cash deposits/ ATM withdrawals. The AO in the subsequent year has also confirmed the nature of business. The Id. CIT(A), held that the appellant has accepted profit of 8% of receipts, the income is to be determined at 8% of the cash deposits of Rs. 2,03,29,260/- i.e. Rs. 16,26,341/-, after allowing credit of the declared income of Rs. 2,35,380/- the difference amount of Rs. 13,90,961/- was determined as undisclosed income of the appellant. On going through the entire facts, we find that the decision of the Id. CIT(A) is to be reasonable and hence, we decline to interfere with the order of the Id. CIT(A).

10. In the result, the appeal of the Revenue is dismissed.

Order Pronounced in the Open Court on 07/12/2023.

**Sd/-
(Saktijit Dey)
Vice President**

**Sd/-
(Dr. B. R. R. Kumar)
Accountant Member**

Dated: 07/12/2023

NV, Sr. PS

ITA No. 9634/Del/2019
Ram Niwas Sharma

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, DELHI