

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

<u>ITA No. 2272/Del/2019:</u>	<u>A.Y. 2009-10</u>
<u>ITA No. 2273/Del/2019:</u>	<u>A.Y. 2010-11</u>
<u>ITA No. 2274/Del/2019:</u>	<u>A.Y. 2011-12</u>
<u>ITA No. 2275/Del/2019:</u>	<u>A.Y. 2012-13</u>
<u>ITA No. 2276/Del/2019:</u>	<u>A.Y. 2013-14</u>
<u>ITA No. 2277/Del/2019:</u>	<u>A.Y. 2014-15</u>
<u>ITA No. 2278/Del/2019:</u>	<u>A.Y. 2015-16</u>

M/s Dash Exports Pvt. Ltd. 109, First Floor, Gali no. 6, Samaipur, Delhi-110042.	<u>Vs</u>	ACIT, Central Circle-27, New Delhi.
<b>PAN: AAACD 2471 R</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee represented by</b>	<b>None</b>
<b>Department represented by</b>	<b>Shri T James Singson, CIT, DR</b>
<b>Date of hearing</b>	<b>11.07.2024</b>
<b>Date of pronouncement</b>	<b>11.07.2024</b>

**ORDER**

**PER BENCH:**

This bunch of appeals, preferred by the assessee, arise out of common order dated 22.10.2018 passed by the learned Commissioner of Income-tax (Appeals)-29, New Delhi, pertaining to the assessment years 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16 & 2016-17. All these appeals, relating to the

very same assessee, have been taken up together for hearing and are being disposed of by this common order for the sake of convenience. Common grounds taken by the assessee are as under:

*“1.0 That on the facts and in the circumstances of the case, the CIT(Appeal) was not justified and grossly erred in confirming the addition made u/s 153A of the Act as no incriminating material was found during the course of the search and thus the initiation of proceedings u/s 153A was unlawful and bad in law.*

*1.1 That on the facts and in the circumstances of the case. the CIT(Appeal) has no jurisdiction to confirm fresh assessment made u/s 153A of the Act as the assessment has already been done u/s 143(3) of the Act wherein returned income was accepted after certain modification and hence addition made without incriminating material is against the law.*

*2.0 On the facts and in the circumstances of the case. confirmation by the CIT(Appeal) of rejection of books of accounts without making any specific enquiry and without providing any opportunity of being heard are unlawful.*

*2.1 That on the facts and in the circumstances of the case the CIT(Appeal) erred in not appreciating the facts that judgement of Kachwala Gems vs. JCIT (SC) is totally different and Ld. AO without application of mind and just on the basis of the said judgement rejected books of account which is against the fact.*

*2.2 That on the facts and in the circumstances of the case. the CIT(A) erred in rejecting books of accounts as the appellant submitted copy of Stock Statement along with entire books of accounts wherein no discrepancies were found.*

*3.0 That on the facts and in the circumstances of the case. the CIT(Appeal) erred in confirming the profit ratio @ 1.47 percent ie. profit figures without considering the loss figures in subsequent year.*

*3.1 That on the facts and in the circumstances of the case the CIT(Appeal) grossly erred in confirming profit ratio on sales turnover instead on purchases amount after adjusting negative figures as base in computing the total income, if the books have to be rejected.*

*3.2 That on the facts and in the circumstances of the case, the CIT(Appeal) grossly erred in confirming profit ratio on sales turnover instead on purchases amount after deducting sale/purchase figures as base in computing the total income, if the books have to be rejected.*

*4.0 That on the facts and in the circumstances of the case, the CIT(Appeal) erred in confirming the addition made by the Ld. AO without providing any opportunity of being heard and cross examination with any material evidence including third party which can prove that the transaction is genuine.*

*5.0 That the appellant craves leave, to add, to amend, modify, rescind, supplement, or alter any of the grounds stated here-in-above, either before or at the time of hearing of this appeal.”*

2. At the time of hearing no one attended the proceedings. It is seen from records that assessee is not represented for various dates. Notices of hearing have been returned unserved. After hearing learned DR and perusing the material on record we proceed to dispose of the appeals, ex parte, qua the assessee.

3. It is noticed that on 6.6.2023 it was intimated that the assessee company is undergoing insolvency proceedings vide Company Petition no. IB-1388/ND/2018; that the application of the applicant/ operational creditor has been admitted by the learned NCLT vide judgment dated 26.02.2020 and the matter is still pending before the learned NCLT and the learned NCLT has also appointed Interim Resolution Profession (IRP). A copy of order passed by the learned NCLT is also available on record. Para 18 of the order passed by the learned NCLT reads as under:

*“18. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Corporate debtor prohibiting proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in vogue.”*

4. Therefore, keeping in view the order of learned NCLT, declaring moratorium as envisaged under the provisions of Section 14(1) in relation to the Corporate debtor prohibiting proviso (a) to (d) of the Code, the present appeals preferred by the assessee cannot be proceeded. Consequently, present appeals filed by the assessee are dismissed with liberty to the assessee to approach the Tribunal for recall of the order, in due course, in accordance with law.

5. Assessee's appeals are dismissed.

Order pronounced in open court on 11.07.2024.

**Sd/-**  
**(BRAJESH KUMAR SINGH)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI