

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

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
DR. BRR KUMAR, ACCOUNTANT MEMBER**

ITA No. 2606/DEL/2023	A.Y. 2013-14
ITA No. 2632/DEL/2023	A.Y. 2017-18
ITA No. 2728/DEL/2023	A.Y. 2018-19
ITA No. 2729/DEL/2023	A.Y. 2019-20

DCIT, Central Circle-16, Delhi.	<u>Vs</u>	Kawatra Tent & Caterers Private Limited, 5/108, Subhash Nagar, Delhi-110027. PAN: AAECK 2061 L
APPELLANT		RESPONDENT

AND

C.O. No. 133/Del/2023 [In ITA No. 2606/DEL/2023 (A.Y. 2013-14)]
C.O. No. 132/Del/2023 [In ITA No. 2632/DEL/2023 (A.Y. 2017-18)]
C.O. No. 137/Del/2023 [In ITA No. 2728/DEL/2023 (A.Y. 2018-19)]
C.O. No. 138/Del/2023 [In ITA No. 2729/DEL/2023 (A.Y. 2019-20)]

Kawatra Tent & Caterers Private Limited, 5/108, Subhash Nagar, Delhi-110027. PAN: AAECK 2061 L	<u>Vs</u>	DCIT, Central Circle-16, Delhi.
CROSS OBJECTOR		RESPONDENT

Assessee represented by	Shri Manoj Gupta, CA & Shri Kundan D. Wahi, CA
Department represented by	Ms. Ritu Sharma, CIT(DR)
Date of hearing	11.07.2024
Date of pronouncement	25.07.2024

ORDER

PER BENCH:

Captioned appeals and cross objections by the Revenue and the assessee, respectively, arise out of separate orders of learned Commissioner of Income-tax (Appeals)-26, New Delhi, pertaining to assessment years 2013-14, 2017-18, 2018-19 and 2019-20. Since issues raised in all these appeals and cross-objections are common, they have been clubbed together and disposed of in a consolidated order. At the outset we propose to deal with the appeals of the Revenue.

2. As could be seen from the grounds raised, the grievance of the Revenue is against the decision of learned First Appellate Authority in restricting the additions made on account of unaccounted business receipts to the net profit rate of 10%. Since the facts relating to the issue in dispute are common in all the appeals, for the sake of brevity, we deal with the facts as involved in ITA no. 2602/Del/2023, pertaining to assessment year 2013-14, treating it as a lead case.

3. Briefly stated, the assessee is a resident corporate entity. As stated, the assessee is a tent-house service provider. For the assessment year 2013-14 the assessee had filed its original return of income on 1.10.2013 declaring income of Rs. 5,05,730/-. On 03.05.2018 a search and seizure operation u/s 153A of the Act was carried out in case of the assessee as well as other group entities. As alleged,

in course of search and seizure operation, various incriminating papers/ documents were found and seized. Consequent thereupon, proceeding u/s 153A of the Act was initiated against the assessee. In course of assessment proceedings, the Assessing Officer observed that as per the seized documents, laptop and mobile phone of Shri Praveen Kawatra, various receipts were found in connection with the tent house business activity. However, many of such receipts had not been shown by the assessee, nor offered as income. Accordingly, the Assessing Officer worked out unaccounted business receipts of Rs. 4900366/- and added to the income of the assessee. Further, on verifying seized documents the Assessing Officer observed that they reveal unaccounted cash sales resulting in suppression of sales. Applying sales suppression factor of 2.3880, he determined the net suppression at Rs. 1,45,32,728/-. As a result of the aforesaid two additions, the total income of the assessee was determined at Rs.1,99,38,820/-.

4. Against the assessment order, so passed, assessee preferred appeal before learned First Appellate Authority. After considering the submissions of the assessee, in the context of facts and materials on record, learned First Appellate Authority did not find merit in the grounds raised by the assessee challenging the validity of the proceedings u/s 153A of the Act. However, so far as merits of the issue is concerned, learned First Appellate Authority held that since the additions made by the Assessing Officer represented business receipts of the assessee, only

the profit element involved in such unaccounted business receipts can be treated as income of the assessee. Accordingly, he estimated the net profit on the unaccounted business receipts at 10% and restricted the addition to Rs.19,43,309/-.

5. We have considered rival submissions and perused materials on record. The dispute between the assessee and the Revenue is with regard to the quantum of addition that can be made due to unaccounted business receipts/ suppression of sales. Learned First Appellate Authority has agreed with the Assessing Officer that based on seized material the assessee was found to be indulging in out of books sales. However, the issue which arises for consideration is, whether, the entire amount of sales suppression/ unaccounted business receipts can be treated as income of the assessee or only the profit element embedded in such receipts can be considered as income. As we find from the observations of learned First Appellate Authority, the persons covered under the search and seizure, including the assessee, were found to be involved in the same kind of business i.e. tent house service provider and catering. As rightly observed by learned First Appellate Authority, nature of business involved outsourcing of many services to various entities/ individuals, many of whom are freelancers and available for providing services to anyone on payment basis. Many of them are small vendors, such as, flower decorators, tents decorators, music and DJs, photographer and videographer, event management, parking services, generators, priest for wedding,

wedding band services including supply of horses/ elephants/camels, makeup artists, bar and bar tenders, stalls of special cuisines such as fruits and chats etc. Generally these types of vendors receive the remuneration in cash for which no receipts are being given. Since the assessee, as a tent house service provider and caterer, acts as a common point booking, it provides a lump sum estimate for the entire range of services, according to the choice of the clients. The payments are also received commensurate with the services rendered. However, the payments received include the payments to be made to various vendors providing host of services. In such a scenario, the entire unaccounted business receipts on account of suppression cannot be treated as income of the assessee. As rightly pointed out by learned First Appellate Authority, the addition made by the assessee on lump sum basis would increase the net profit rate to 55.20%, which is not only astronomical but not achievable as per the market norms. In the aforesaid scenario, learned First Appellate Authority was justified in estimating the net profit on the unaccounted business receipts/ suppression of sales applying the rate of 10%. There being no infirmity in the aforesaid decision of learned First Appellate Authority, we do not find any valid reason to interfere. Grounds raised are dismissed. This decision of ours, would apply mutatis mutandis to all the appeals of the Revenue.

6. So far as the cross objections are concerned, grounds raised by the assessee are challenging the validity of the proceedings initiated u/s 153A of the Act and the assessment orders passed in pursuance thereof.

7. At the time of hearing, learned counsel appearing for the assessee has not advanced any substantive arguments in support of the grounds raised in the cross objections. Even otherwise also, on perusal of the impugned order of learned First Appellate Authority, we are convinced that he has thoroughly examined all the legal issues raised by the assessee and addressed them in a logical and lawful manner. Therefore, we do not find any merit in the grounds raised in the cross-objections. Accordingly, cross-objections are dismissed.

8. To sum up, all the appeals and cross-objections are dismissed.

Order pronounced in open court on 25.07.2024.

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER
Dated: 25.07.2024.

MP

Copy forwarded to:

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

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

ASSISTANT REGISTRAR
ITAT, NEW DELHI

