

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 2497/Del/2023
Assessment Year : 2019-20

Tristar Hospitalitys H. No.5/95, 27A & 27B Industrial Area, Shivaji Marg, Delhi – 110 015	Vs.	Assistant Commissioner of Income Tax Central Circle – 16, Delhi
TAN/ PAN : AAJFT 5837 D		
(Appellant)		(Respondent)

Applicant by:	Shri P. K. Mishra, C.A. and Shri Neeraj Jain, C.A.		
Respondent by:	Ms. Sapna Bhatia, CIT-D.R.		
Date of hearing:	29	08	2024
Date of pronouncement:	28	11	2024

ORDER

PER PRADIP KUMAR KEDIA - A.M.:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals) - 26, New Delhi ('CIT(A)' in short) dated 30.06.2023 arising from the assessment order dated 08.10.2021 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 ('the Act') concerning A.Y. 2019-20 in question.

2. In the course of hearing, the learned Counsel for the assessee placed written submissions, which read as under:

- *Appellant is a firm formed on 27.09.2014 having 3 partners namely (1) Sh. Sanjeev Kohli (50% share) (2) Sh. Sunit Goyal (25% Share) and (3) Sh. Gagandeep Sahni (25% Share).*

- *A search and seizure operation was carried out by the income tax department at the premises of the partners and other businesses connected with the partners on 03.05.2018*
- *The appellant e-filed the return of income on 22.10.2019 at a total income of Rs.7,68,410/-*
- *During the course of search certain documents were found and seized from the premises of the partners which were stated to be related to the appellant firm and were handed over to the Id. AO on 09.02.2021 and consequently the assessment proceeding were initiated in the case of the assessee under section 143(3) r.w.s. 153C of the Act.*
- *The assessment order was passed in this case under section 143(3) of the Act on 08.10.2021 making following additions:*
 - *Addition on account of unrecorded business receipts of Rs. 71,000 on the basis of Hard Disk found from the premises of Ritz Banquets*
 - *Addition on account of unrecorded business receipts of Rs. 23,58,400/- on the basis of images retrieved from the phone of Sh. Sanjeev Kohli (partner)*
- *The appellant filed an appeal before the CIT(A) against the additions made by ld. AO and an order under section 250 was passed on 30.06.2023.*
- *The ld. CIT (A) sustained the addition to the extent of Rs. 2,42,940/- being net profit @ of 10% of unaccounted business receipts of Rs. 24,29,400/- (Rs. 71,000/- + Rs. 23,58,400/-) made by the learned AO in the assessment order.*
- *The learned CIT(A) in paragraph 7.2.6 of his order has held as under:-*

"7.2.6 In view of the above facts and submissions by the appellant, I am of the view that only net profit of the out of books sales can be added to the income of the appellant. In the appellant's line of business which is a very competitive one and considering the net profit earned by M/s Fourstar Hospitalities computed on the basis of unaccounted receipts and expenditure account found during the course of search and the discussion made in Para 7.2.4 above. I find it appropriate to consider the Net Profit of the appellant @10% of the unaccounted receipts added to the total income by the AO considering the seized material. The AO has made additions of Rs. 24,29,400/- (Rs. 71,000/- + Rs.23,58,400/-) on account of unrecorded business receipts which has been considered as income of the appellant assessee instead of net profit on unrecorded business receipts. Thus, in view of the above, the net profit of Rs. 2,42,940/- (i.e. 10% of 24,29,400/-) should have been added to the total income of the appellant.