

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
'SMC' BENCH, CHANDIGARH

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 578/CHD/2024

निर्धारण वर्ष / Assessment Year : 2018-19

Roop Fashion, Gujjar Mal Road, Ludhiana 141001, Punjab	बनाम	Ajay Kumar The ACIT Central Circle-1, Ludhiana, Punjab
स्थायी लेखा सं./PAN NO: AALFR 5035M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(PHYSICAL HEARING)

निर्धारित की ओर से/Assessee by : Shri. Sudhir Sehgal, Adv.

राजस्व की ओर से/ Revenue by : Dr. Ranjeet Kaur, Sr. D.R.

सुनवाई की तारीख/Date of Hearing : 13.11.2024

उद्घोषणा की तारीख/Date of Pronouncement : 09.12.2024

आदेश/Order

The present appeal has been preferred by the assessee against the order passed by the Id. Commissioner of Income Tax (Appeal)-5, Ludhiana (hereinafter referred to as the "Ld. CIT(A)") dated 19.03.2024 for the Assessment Year: 2018-19.

2. The assessee in this appeal has raised the following grounds of appeal:

"1. That the Ld.CIT(A) has erred in confirming the addition of Rs. 2,26,065/- on account of unexplained cash in hand as on the date

of search against the addition of Rs. 5,71,015/- as made by the Assessing Officer.

- 2. That the Ld.CIT(A) has erred in confirming the addition on account shortage in stock by applying the gross profit rate and confirming the addition of Rs. 6,32,967/ out of addition of Rs. 8,12,581/- as made by the Assessing Officer.*
- 3. That the Ld. CIT (A) has erred in confirming the action of the Assessing Officer in rejecting the books of accounts u/s 145(3) on the basis of certain irrelevant facts.*
- 4. That the Ld. CIT (A) has erred in confirming the addition of Rs, 1,02,756/- on accounted sale as per books of accounts.*
- 5. That the Ld. CIT(A) has erred in making the addition of alleged unaccounted investment of the disclosed sale to the tune of Rs. 4,03,296/- and applying the provisions of section 115BBE of the Income Tax Act, which is against the facts and circumstances of the case.*
- 6. That the Ld. Assessing Officer has erred in confirming the addition of Rs. 6,50,000/- on account of alleged unaccounted cash received from customers as per seized documents.*
- 7. Notwithstanding the above said grounds of appeal, the Ld.CIT (A) has erred in not allowing the telescoping effect in respect various addition.*

3. **Ground no. 1:** The assessee vide this ground has contested the confirmation of addition of Rs.2,26,065/- on account of unexplained cash in hand as found on the date of search at the house of the assessee.

4. At the outset, the ld. counsel for the assessee has invited my attention to page No. 33 of the impugned order of the ld. CIT(A) to show that the ld. CIT(A) after going through the facts of the case noted that as per the Assessing Officer, there was unexplained cash

in hand of the assessee as Rs.11,26,065/-. The Ld. CIT(A), however, accepted the explanation of the assessee regarding cash of Rs. 9 lacs. The Ld. CIT(A), however, did not agree with the contention of the assessee, that the remaining amount of Rs.2,26,065/- was out of the past savings of the family. Considering the smallness of the amount, which obviously can be assumed to be out of the past savings, I do not find any justification on the part of the Ld. CIT(A) in confirming the impugned addition, especially, when the assessee has explained the source of the entire cash in hand to the satisfaction of the lower authorities. This ground is allowed and accordingly, the impugned addition is ordered to be deleted.

5. **Ground nos. 2 & 3:** The assessee has agitated against the confirmation of the addition by the Ld. CIT(A) of Rs.6,32,967/- by estimating the gross profit rate on the unaccounted sales made by the assessee. The ld. counsel has not pressed these grounds of appeal, the same are accordingly dismissed.

6. **Ground nos. 4, 5 & 6:** The ld. counsel has contended that the Assessing Officer has erred in confirming the addition made by the Assessing Officer on account of some documents/slips found during the course of search and thereby observing that the assessee had

received some unaccounted cash. The ld. counsel for the assessee has submitted that it is the case of the department that the assessee has made unaccounted cash sales of about Rs.50 lacs. He has submitted that the small amounts covered vide ground nos. 4, 5 & 6 i.e., Rs.1,02,756, Rs.4,03,296/- and Rs.6,50,000/- are lower than the alleged receipts of unaccounted sales, income relating to which has already been added and the same has not been contested as noted in relation to Grounds no. 2 and 3 above. The amounts in question, therefore, are covered by the aforesaid unaccounted sales, profit element to which has already been added to the income of the assessee. In view of this, the addition made by the lower authorities in respect of ground nos. 4, 5 & 6 is not sustainable, the same is ordered to be deleted and the ground nos. 4 5 & 6 are accordingly allowed.

7. **Ground no. 7** is general in nature.

8. In the result, the appeal of the assessee stands partly allowed.

Order pronounced on 09.12.2024.

Sd/-

(SANJAY GARG)
Judicial Member

Dated : 09.12.2024

“GP/Sr.PS.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar