

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
and  
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.1844/DEL/2015  
(Assessment Year: 2010-11)**

Digvijay Singh,  
Sector 16, G-1/208-209,  
Rohini,  
New Delhi – 110 089.

vs.

ITO, Ward 37 (1),  
New Delhi.

**(PAN : AMHPS2542J)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Shri Vivek Kumar Upadhyay, Sr. DR

Date of Hearing : 20.11.2024

Date of Order : 23.12.2024

**ORDER**

**PER S.RIFAUR RAHMAN,AM:**

1. This appeal is filed by the assessee against the order of Id. Commissioner of Income-tax (Appeals)-XX, New Delhi (hereinafter referred to 'Ld. CIT (A)') dated 02.01.2015 for Assessment Year 2010-11.
2. At the time of hearing, we observed that the original appeal was filed by the assessee on 16.04.2015. Since none appeared on behalf of the assessee on several occasions, the coordinate Bench dismissed the appeal filed by the assessee for the same reason on 05.04.2018. Subsequently, in

MA No.61/Del/2022, the appeal was recalled on 24.04.2023. Even after that on 9 occasions, the case was listed for hearing and only on 14.03.2024 written request was filed on behalf of the assessee for adjournment. Considering the fact on record, we proceeded to adjudicate the issue with the assistance of ld. DR for the Revenue.

3. We noticed that assessee has filed various grounds A to L. The relevant facts on record, we observed that assessee has filed its return of income on 27.10.2010 declaring income of Rs.8,31,080/-. The case was selected for scrutiny under CASS. Notices u/s 143(2) and 142(1) of the Income-tax Act, 1961 (for short 'the Act') were issued on the assessee. The assessee is engaged in the publication of newspapers. The case was transferred from ITO Ward 21(1), New Delhi to the present ITO. In response to notices, assessee along with AR attended the hearing from time to time and submitted the relevant information as called for.
4. During assessment proceedings, the AO observed that assessee has claimed expenses of Rs.1,08,66,681/- on account of commission but no details regarding the above commission was filed. The AO observed that the assessee is liable to deduct TDS on the above commission but no details regarding the TDS on commission nor deposited the same in Government account were submitted. Several show-cause notices were issued to the assessee. Since no details were submitted on this issue the

AO made the addition. Further the AO observed that assessee has also claimed other expenditure of Rs.2,13,93,676/- which includes purchase of paper, power charges, salary and other administration expenses. Since assessee failed to submit the details of expenses and relevant bills/vouchers, the AO disallowed 10% of the above expenditure. Further AO observed that the assessee has shown sundry creditors of Rs.4,11,500/- and not filed any confirmation from the creditors, accordingly he disallowed the same. Further he disallowed deduction under Chapter IV-A of Rs.1,00,000/-.

5. Aggrieved with the above order, assessee preferred an appeal before the Id.CIT(A)-XX, New Delhi. After considering the submissions of the assessee, Id. CIT (A) sustained the additions by dismissing the appeal filed by the assessee. Against this order, the assessee is in appeal before us.
6. Ld. DR for the Revenue brought to our notice above facts on record and submitted that the assessee has not submitted relevant information before the lower authorities and considering the peculiar facts on record, the AO has made the disallowances and he relied on the findings of the lower authorities.
7. Considered the submissions of Id. DR of the Revenue. We observed from the record that assessee is running a proprietary firm engaged in the

business of publication and distribution of newspaper in the name and style of 'Freedom Fighter' and 'Engineers Institute Hindi Daily and Weekly Newspaper'. We observed from the record that assessee has submitted the return of income along with financial statements as per the Profit and Loss account submitted by the assessee along with monthly sale of newspaper and journal submitted before AO. We observed that the AO has accepted the sales declared by the assessee in its Profit and Loss account and he observed that assessee has claimed salesman commission of Rs.1,08,66,681/-. After considering the submissions of the assessee in this regard and also the regular practice in this line of business of newspaper, we observed that it is normal practice to sell the newspaper at MRP. However, they actually realize the net amount i.e. MRP minus discount/commission offered to the distributors. In this case, we observed that assessee has submitted month-wise sale of copies at the MRP and also submitted actual realization after discount offered to the distributors which are placed on record as Annexure-5 to the paper book. We observed that AO has disallowed the above sales commission observing that TDS provisions are attracted in this case and since assessee has not followed the abovesaid provisions, he disallowed the same. After considering the facts on record, we observed that it is normal practice in this line of business to give discount which includes

commission to the distributors. What is relevant is that the assessee is actually realizing the amount at the time of sale and not the MRP, therefore, assessee is not in a position to deduct the TDS on this peculiar type of transactions. In this regard, we rely on the decision of Hon'ble Supreme Court in the case of CIT vs. Ahmedabad Stamp Vendors Association Civil Appeal No.10270 of 2003 dated 06.09.2012 and Bharti Cellular Ltd. vs. ACIT Civil Appeal No.7257 of 2011 dated 28.02.2024. The facts in the above cases are exactly similar as to the case in hand. Therefore, we are inclined to allow the discount claimed by the assessee and direct the AO accordingly.

8. Further we observed that AO has disallowed 10% of the total expenditure claimed by the assessee and on careful consideration, we observed that the above expenditure includes purchase of papers, labour charges, printing charges and other administration expenses. The AO cannot proceed to disallow on estimation basis. Therefore, we are not inclined to accept the action of the AO by making the disallowances without making proper enquiry. Accordingly, this ground of appeal is allowed in favour of the assessee.
9. Coming to the other issue of non-submission of confirmation from the sundry creditors, since there is no representation on the part of the assessee, we are inclined to sustain the addition made by the AO and

similarly disallowance of Chapter IV-A claimed by the assessee, we are inclined to sustain the same.

10. In the result, the appeal of the assessee is partly allowed with the above observations.

**Order pronounced in the open court on this 23<sup>rd</sup> day of December, 2024.**

**Sd/-  
(VIAKAS AWASTHY)  
JUDICIAL MEMBER**

**sd/-  
(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**Dated:23.12.2024  
TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)-XX, New Delhi.
5. DR: ITAT

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**