

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA Nos. 2781 to 2785/Del/2022

निर्धारणवर्ष/Assessment Years:2015-16 to 2019-20

BIG BOYS TOYS LIMITED Pragati, Tower, 1003, Rajinder Place, New Delhi.	बनाम Vs.	DCIT, Central Circle-2, New Delhi.
PAN No.AAECB2764P		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri Tarandeep Singh, FCA & Shri Sandeep Singh, Adv.
Revenue by	Shri Ajay Kumar Arora, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	29.05.2025
उद्घोषणाकीतारीख/Pronouncement on	25.06.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

All these appeals are filed by the Assessee against different orders of the Ld. Commissioner of Income Tax (Appeals)-23 dated 27.10.2022 and 15.11.2022 for the assessment years 2015-16 to 2019-20 in partly sustaining the addition made by the Assessing Officer.

2. The Ld. Counsel for the assessee, at the outset, submits that the only issues to be decided in these appeals is with respect to the

estimation of gross profit adopted by the Ld. CIT(A) on the unaccounted cash sales referred to in Sl. Nos. 11 & 14 appearing at page 21 of the Ld. CIT(A) order for exclusion from cash sales while estimating the gross profit rate and over all percentage of GP adopted by the Ld. CIT(A) is excessive.

3. Heard rival submissions, perused the orders of the authorities below. There was search and seizure operation in the case of M/s H.S. Impex Group and Associates on 17.12.2018 and there was also a survey proceedings u/s 133A of the Act in the case of the assessee company. Pursuant to the survey operations statements were recorded from the CFO, Managing Director and other Directors of the assessee company. Based on the statements recorded and the materials impounded in the course of survey as well as in the course of post survey enquiries and the digital data seized from the mobiles of the Directors. The AO concluded that the assessee has made a cash sales outside the books of account and the book results are not reliable and accordingly he rejected the books of account of the assessee and made addition in respect of cash sales and completed the assessments. However, the Ld. CIT(A) held that there is no justification in rejecting the books of account by the AO in the absence of pointing out any specific defect in the audited

books of account. Further the Ld. CIT(A) considering the submissions of the assessee on the additions made by the AO in respect of cash sales and held that the submissions are in general and no specific infirmity or error has been pointed out in the assessment order, the cash receipts appearing in sales register stood accepted by M/s Thresiamma Johny (CFO) of the assessee and the transactions appeared from the wats app chat from Shri Jatin Ahuja and Nipun Miglani shows that there is existence of cash sales. However, at the same time the Ld. CIT(A) did not accept the contention of the AO that the entire unaccounted cash sales are to be brought to tax and he was of the opinion that only the profit element embedded therein shall be brought to tax. Accordingly the Ld. CIT(A) considering the gross profit shown by the assessee at 9.35% for the FY 2017-18 relevant to the immediately preceding assessment year i.e. 2018-19. It was observed that the gross profit for this year as declared by the assessee comes to 9.27%. Therefore, considering the gross profit of the assessee for the last two years the gross profit rate was estimated by the Ld. CIT(A) at 10% on the total receipts in cash.

5. The Ld. Counsel for the assessee before us assailed only on the points of gross profit estimated by the Ld. CIT(A) in all these

assessment years as excessive and in the AY 2019-20, the Ld. Counsel for the assessee inviting our attention to the transactions appearing in Sl. Nos. 11 & 14 as noted by the Ld. CIT(A) at page 21 of the order submitted that at para 20 of the Ld. CIT(A) order he himself has accepted that the explanation put forth by the assessee that these two transactions holding some merit that the transactions mentioned above i.e. in Sl. Nos. 11 & 14 from their very nature they are incapable of generating any cash and the allegation of unaccounted in respect of such transactions will result in absurdity and defy logic the Ld. Counsel for the assessee submitted that holding so by the Ld. CIT(A) is not justified in not excluding such transactions from the purview of estimation of GP. Therefore, the Ld. Counsel submitted that at least these two transactions which are incapable of generating cash sales may be excluded.

6. We find considerable merit in the submissions of the Ld. Counsel for the assessee that the Ld. CIT(A) himself accepted that the transactions in respect of Sl. Nos. 1 & 14 i.e. with regard to BMW Z4 + PY & BMW Z24 are not capable of generating any cash sales. Having held so we are of the opinion that the Ld. CIT(A) should have excluded these two transactions from the purview of

estimation of GP on cash sales since these two transactions as rightly noticed by the Ld. CIT(A) that from their very nature are incapable of generating any cash. Thus, we direct the AO to exclude the cash sales in respect of these two transactions while estimating the GP on cash sales.

7. In so far as the estimation of percentage of gross profit is concerned, we find that the estimation of 10% adopted by the Ld. CIT(A) on unaccounted cash sales is without functioning the unaccounted expenses in cash and therefore we estimate gross profit percentage to be adopted at 8% as reasonable as against 10% adopted by the CIT(A).

8. The facts in the appeals for the assessment years 2015-16 to 2018-19 are identical as the facts for the AY 2019-20 in so far as estimation of GP on cash sales are concerned. In other words, the only issue for determination in these four appeals is respect of estimation of percentage of GP and we have held that GP shall be estimated at 8% for the AY 2019-20 instead of 10%. Therefore, even for the assessment years 2015-16 to 2018-19 we hold that the percentage of gross profit shall be adopted at 8% which is reasonable.

9. In the result, the appeals for the assessment years 2015-16 to AY 2019-20 are partly allowed as indicated above.

Order pronounced in the open court on 25/06/2025

Sd/-
(S RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 25.06.2025

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI