

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
and  
SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.843/DEL/2020  
(Assessment Year: 2016-17)**

DCIT, Circle 7 (1),  
New Delhi.

vs.

D&Y Technologies Pvt. Ltd.,  
800, 8<sup>th</sup> Floor, Sahyog Building,  
Udhyog Kendra,  
Extn. 2, Ecotech – 3,  
New Delhi – 110 062.

**(PAN :AACCD4526H)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Ms. Ananya Kapoor, Advocate  
Shri Sumit Lal Chandani, Advocate  
Shri Shivam Yadav, Advocate  
REVENUE BY : Shri Rajesh Kumar Dhanesta, Sr. DR

Date of Hearing : 24.06.2025  
Date of Order : 22.09.2025

**ORDER**

**PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :**

1. The Revenue has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals)-3, New Delhi[“Ld. CIT(A)”, for short]dated 12.01.2019for the Assessment Year 2016-17 raising following grounds of appeal :-

“1. On the facts and in the circumstances of the case and in law, the CIT (A) has erred in deleting the addition on account of disallowing salary paid to the Director of Rs.15,00,000/- made by the Assessing Officer.

2. On the facts and in the circumstances of the case and in law, the CIT (A) has erred in deleting the addition of Rs.7,97,08,855/- made by the Assessing Officer on account of low GP rate.”

2. With regard to ground no.1, relevant facts are, the assessee is engaged in the business of manufacturing of mobile phone parts. The AO observed that the assessee has paid remuneration of Rs.15 lakhs to the director Ms. Seran Lee and the AO asked the assessee to justify the payment of this amount to the director. It was submitted by the assessee that Ms. Seran Lee is managing day to day operations of the company and is well qualified/experienced. However, the AO was not satisfied and the AO has disallowed the entire amount by stating that the assessee has failed to produce the documents related to the professional/academic qualification of the director and to justify the amount of remuneration paid to her.
3. Aggrieved, assessee preferred an appeal before the Id. CIT (A) who deleted the addition by observing as under :-

“5.3 I have considered the facts of the case and the submission made by the AR. It has been contended that Ms. Seran Lee is an old time director of the company and is a Korean National and is well qualified and she has declared the complete remuneration in the ITR filed by her. It is further submitted that the AO cannot dictate the nature in which business is to be done. On perusal of the complete acts, I am of the opinion that the AO has not specified any reason for making the disallowance and for treating the remuneration as excessive. It is not the AO's case that the remuneration was paid for purposes other than that of business. It is correct that the AO cannot sit in the chair of the businessman. The AR has rightly relied upon various case laws on this issue. Keeping in view all these facts, the addition made by the AO is deleted and the ground of appeal is allowed.”

4. Aggrieved, Revenue is in appeal before us.

5. At the time of hearing, Id. DR of the Revenue submitted that assessee has failed to produce the documents related to the professional/academic qualification of the director and to justify the amount of remuneration paid to her before the AO and objected to the relief given by the Id. CIT(A).
6. On the other hand, Id. AR of the assessee relied on the findings of the Id. CIT (A).
7. Considered the rival submissions and material placed on record. We observe that Ms. Seran Lee is a Director and a Korean National. It is brought to our notice that she is well qualified and continued to do the services of the Director in the company. She has already declared the complete remuneration received from the company in her return of income, therefore, there is no justification for the AO to disallow the same. Therefore, we do not see any reason to disturb the findings of the Id. CIT (A). Accordingly, ground raised by the Revenue is dismissed.
8. With regard to ground no.2, relevant facts are, the AO observed that there is fall in GP rate from 18.57% to (-) 2.12% and in NP rate from 9.33% to -15.17% as shown in the Tax Audit Report. The AO had vide questionnaire dated 24.11.2018 asked the assessee to justify the fall in GP & NP rate. It was submitted by the Id. AR that the fall in these ratios were due to production of new models of mobile phone parts and there

was more rejection and the company again became profitable in the following financial year. The AO was not satisfied and the AO has rejected the books of account and has made an addition of Rs.7,97,08,855/- on account of fall in GP rate.

9. Aggrieved, assessee preferred an appeal before the Id. CIT (A) who after going through the detailed submissions made by the assessee deleted the addition by observing as under :-

“7.3 I have considered the facts of the case and the submission made by the AR. It has been contended that the AO did not issue any specific show cause notice before making the addition and the AO did not call for the books of account before rejecting the books. The addition has been made and the books of account have been rejected only on the basis of explanation given for drop in profits and no further information was called for by the AO. The AR has furnished the reasons for fall in GP & NP rate. The AR has relied upon various case laws challenging the decision of the AO. I have perused the complete facts of the case. It is observed that the AO has made the addition in a summary manner without pointing out any defect/ in the maintenance of the books of account by the appellant. It is surprising that the books have been rejected without calling for the same. No reason has been specified to reject the explanation given by the appellant to justify the fall in GP & NP rates. I am of the opinion that the AO has wrongly rejected the books of account without furnishing any just and proper reason and also without providing any opportunity to the appellant. Merely because there was a fall in profitability, the books of account cannot be rejected by the AO unless it is established that the fall in profits is due to booking of expenses not incurred for the purposes of the business or Suppression of revenue receipts. No such finding has been given by the AO. In these Circumstances, it is difficult to uphold the decision of the AO. Accordingly, the addition made by the AO is deleted and the ground of appeal is allowed.”

10. Aggrieved, Revenue is in appeal before us.

11. At the time of hearing, ld. DR of the Revenue submitted that the assessee has not produced any supporting records/details before the AO and he objected to the relief granted by the ld. CIT (A).
12. On the other hand, ld. AR of the assessee relied on the findings of the ld. CIT(A).
13. Considered the rival submissions and material placed on record. We observe that the AO has rejected the books of account without calling for any specific information from the assessee nor issued any notice on this aspect. The AO rejected the books of account merely on the basis of fall in GP and NP. We observe that assessee has submitted a detailed reasons justifying the fall of profit before the ld. CIT (A). For the sake of repetition, it is reproduced below :-

“The assessee’s profit has dropped due to higher consumption of raw material, majorly due to rejection and drop in sales when compared with the previous year. The assessee manufactures parts for mobile phones. New models are launched on a daily basis. There are instances where there is difficulty in achieving the quality desired by the customer, this leads to increase in costs due to rejection. Also, costing is controlled by the customer. The customer controls the sales price. Hence, the assessee who is a contract manufacturer has to abide by the customers decision.

The assessee is subject to various laws and audits and books of account of the assessee are accepted by all authorities,

Detailed information on purchase of raw material and sale of finished goods for the years 2014- 2015 and 2015-2016 is enclosed at Annexure "E".

14. Since the assessee has explained the reasons for fall of GP and NP, we observe that the AO has rejected the books of account and proceeded to complete assessment without bringing on record cogent reasons for

taking such decisions to reject the books of account and he proceeded to make addition in a summary manner without pointing out any defect in the maintenance of books of account nor given any analysis on account of fall in profits. It is the business decision of the businessman to conduct in such a manner beneficial to his business. It is not the duty of the tax authorities to direct how a business should be handled or conducted. After considering the findings of the Id. CIT (A), we do not see any reason to disturb the findings of the Id. CIT (A). Accordingly, ground no.2 raised by the Revenue is dismissed.

15. In the result, the appeal filed by the Revenue is dismissed.

**Order pronounced in the open court on this 22<sup>nd</sup> day of September, 2025.**

SD/-  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

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

**Dated: 22.09.2025**  
**TS**

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**