IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
[DELHI BENCH: "C" NEW DELHI]
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMEBR
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER

I.T.A. No.8341/Del/2019 (A.Y 2011-12)

ITO Ward-14(4) Room No. 305, C. R. Building, I. P. Estate, New Delhi	Vs.	Kross Diamonds Pvt. Ltd. B-45/47, Basement, Connaught Place, New Delhi **PAN: AADCK3002A**
Appellant		**Respondent**

Assessee by	Sh. Shivam Malik, Adv
Revenue by	Sh. Om Prakash, Sr. DR
Date of Hearing	10/03/2026
Date of Pronouncement	17/04/2026

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Revenue against the order of Ld. Commissioner of Income Tax (Appeals) ('Ld. CIT(A)' for short), New Delhi dated 25/07/2019 for the Assessment Year 2011-12.

2. Brief facts of the case are that, the case of the Assessee was reopened by the A.O. on the basis of information received from DTIT in its Units at Mumbai and Kolkata. The Assessee had originally filed return of income declaring income at Rs. 6,90,213/- which was assessed under Section 143(3) of the Income Tax Act, 1961 ('Act' for short) determining the total income at Rs. 8,25,640/- making additions/disallowance of Rs.

1,35,427/-. Order under Section 143(3) r.w. Section147 came to be passed on 14/12/2018 by assessing the income of the Assessee at Rs. 4,88,77,700/- by making an additions by applying commission as 0.5% on the total turnover. Aggrieved by the assessment order dated14/12/2018, Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vie order dated 25/07/2019 deleted the addition made by the Assessee. As against the order of the Ld. CIT(A), the Revenue preferred the captioned Appeal.

3. The Ld. Departmental Representative vehemently submitted that there were continuous cash deposits in by M/s Kritvi Enterprises in Axis Bank and transferred to the Assessee company from the bank account of M/s. Kritvi Enterprises, further, no detail were filed by the Assessee company relating to sale and purchase of diamonds with M/s Kritvi Enterprises and their related bill therefore, the transaction is not reliable hence, in absence of proper record of sale and purchase and source of cash deposit, the book of account on basis of which the Assessee company has filed ledger account has been treated as by the A.O. as not reliable in absence of bill and voucher of sale and purchase and rejected as per the provision of Section 145(3) of the I.T Act, 1961. Further, submitted the Ld. CIT(A) committed error in deleting the said addition.

Therefore, by relying on the Assessment Order the Ld. Departmental Representative sought for allowing the Appeal.

4. Per contra, the Ld. Assessee's Representative submitted that the identical issue has been considered by the Co-ordinate Bench of the Tribunal in Assessee's own case in ITA No. 5373/Del/2019 and dismissed the Appeal of the Revenue. By relying on the findings and the conclusion of the order of the Tribunal, sought for dismissal of the Appeal.

5. We have heard both the parties and perused the material available on record. The identical issue has been dealt and decided by the Co-ordinate Bench of the Tribunal in the appeal filed by the Department for Assessment Year 2010-11 in Assessee's own case in ITA No. 5373/Del/2019, vide order dated 18/12/2024, held as under: -

> *"3. We have heard the rival submissions and perused the materials available on record. The return of income for the assessment year 2010-11 was filed by the assessee company on 8-2-2011 declaring total income of Rs 5,04,056/-. The said return was duly processed under section 143(1) of the Act. Based on information received on 20-3-2017 from the office of Deputy Director of Income Tax (Inv.) Unit 6(4), Mumbai dated 14-3- 2017, the assessment was sought to be reopened for the assessee for assessment year 2010-11. The said information stated that an inquiry was carried out in the case of Shri Anil Kumar Jain and various persons and the entities connected to him after information was received about the suspicious financial transactions entered into by them. The main suspicion was that high-value transactions were credited through RTGS/ clearing / cash / transfer from various accounts, which was immediately withdrawn by cash / multiple transfers were made to other accounts. Money was rotated within a certain group of accounts and the funds were moved out*

*through clearing or foreign outward remittance. An inquiry was conducted by calling for bank statements and recording the statement under section 131 of the Act of various persons including Mr. Anil Kumar Jain and Mr. Praveen Kumar Jain. Statement of Shri Anil Kumar Jain was recorded on 13-2-2013 and that of Shri Praveen Kumar Jain on 18-2-2013. They admitted that they were carrying on the business of giving cheque entries and take cash from the parties to whom cheques were issued and also give the parties RTGS /transfer /high-value pay orders as required by them. They provided the details of entities operated by them. One such entity was M/s Krithvi Enterprises Limited which was handled by Shri Praveen Kumar Jain and Shri Anil Kumar Jain. The bank statement of M/s Krithvi Enterprises Limited was called for and analyzed. The Learned AO observed that from the said analysis, it transpired that Krithvi Enterprises Limited had purchase and sales transactions with assessee herein. The Learned AO doubted that the transactions of purchases and sales made by the assessee with Krithvi Enterprises Limited are not genuine and proceeded to treat the difference between the amounts received in the sum of Rs 44,11,50,000/- and amounts paid of Rs 75,90,00,000/- amounting to Rs 31,78,50,000/- as inflated purchases made by the assessee by manipulating the books of accounts to reduce the taxable income. Accordingly, the Learned AO proceeded to reject the books of accounts of the assessee and the book results thereon in terms of provisions of section 145(3) of the Act. Accordingly, the Learned AO proceeded to estimate the profit of the assessee for the year under consideration. For this purpose, he found that gross profit declared by the assessee in assessment year 2011-12 is 0.068% and for the year under consideration at 0.076%. The Learned AO estimated the gross profit at the rate of 0.5% on the total turnover of the assessee company and made an addition of Rs. 3,38,77,822/- (677,55,64,560 * 0.5%).*

4. The Learned CITA deleted the said addition made by the Learned AO. We find that the assessee had duly furnished the list of parties from whom purchases were made and list of parties from whom sales are made during the year under consideration. These details are enclosed in pages 45 to 46 of the paper book. From the perusal of the said list, it is found that there were absolutely no purchases and sales transactions made by the assessee with Krithvi Enterprises Limited. Hence, the entire allegation of the Learned AO falls flat as it is based on incorrect assumption of fact. Accordingly, there is absolutely no basis for the Learned AO to reject the books of accounts of the assessee by applying the provisions of section 145(3) of the Act and estimate the profits thereon. Further, the Learned AO before us submitted that Krithvi Enterprises Limited and assessee are in the same line of business. There are certain loan transactions between assessee and Krithvi Enterprises Limited which are reflected in the ledger account. The loans taken by the assessee from Krithvi Enterprises Limited are utilized for business purposes and most of the loans are also squared up during the year under consideration itself. Further, the Learned AO had not mentioned from the statements of Mr. Anil Kumar Jain and Mr. Pravin Kumar Jain, that they had provided bogus or hawala entries to the assessee company. The statements of such persons were also not

provided to the assessee for the purpose of rebuttal. Hence, there is absolutely no case for the revenue to use the said statements even if it is found to be adverse against the assessee.

5. In view of the aforesaid observations, we have no hesitation to hold that the books of accounts had been wrongly rejected by the Learned AO in the facts and circumstances of the instant case and consequentially, no profit could be estimated in assessee"s case. Further, there were no purchases and sales transactions made by the assessee with Krithvi Enterprises Limited which is evident from pages 45 and 46 of the paper book containing the list of parties from whom purchases were made and parties to whom sales were made by the assessee. Hence, the entire allegations leveled by the Learned AO in the assessment order are purely based on complete incorrect assumption of fact that purchases and sales transactions made by the assessee with Krithvi Enterprises to be treated as bogus. In view of this, we have no hesitation to confirm the order of the Learned CITA who had deleted the addition made by the Learned AO. Accordingly, the grounds raised by the revenue are dismissed."

6. As the Revenue has not brought any fresh material in order to distinguish the findings and the conclusion of the order of the Tribunal for Assessment Year 2010-11, as the facts and circumstances being identical, by respectfully following the order of the Tribunal dated 18/12/2024 in ITA No. 5373/Del/2019 (supra), we find no merits in the Grounds of appeal of the Revenue. According appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 17th April, 2026

Sd/- **Sd/-**

(M. BALAGANESH) **(YOGESH KUMAR U.S.)**
ACCOUNTANT MEMBER **JUDICIAL MEMBER**

Date:- 17 .04.2026
R.N, Sr.P.S*

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

ASSISTANT REGISTR
ITAT, NEW DELHI