

आयकर अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER
AND SHRI O.P. MEENA, ACCOUNTANT MEMBER
I.T.A. No. 942/Ind/2016
Assessment Year 2011-12

Shri Govind Shantilal Agrawal
Khargone

PAN – ABGPA-5238F

:: अपीलार्थी/Appellant

Vs

Dy. Commissioner of
Income tax

Khandwa

:: प्रत्यर्थी /Respondent

निर्धारिती की ओर से/Assessee by	Shri S.S. Solanki
राजस्व की ओर से/Revenue by	Shri Mohd. Javed - DR
सुनवाई की तारीख Date of hearing	23.3.2017
उद्घोषणा की तारीख Date of pronouncement	28.3.2017

आदेश /O R D E R

PER SHRI C.M. GARG, JM

This appeals has been filed by the assessee against the order of the learned CIT(A)-22, New Delhi, having concurrent jurisdiction over the CIT(A)-2, Indore, dated 15.6.2016 in First Appeal No. 487/13-14/58 for the assessment year 2011-12.

2. The only ground taken by the assessee in this appeal reads as under :-

“That the learned CIT(A) erred in confirming the addition of Rs.6,98,650/- made in the value of closing stock. That as per correct valuation, the valuation of closing stock comes to Rs.9,71,031/- and not Rs.16,69,681/-. The addition so made being wrong, the same require to be deleted.”

3. The facts, in nutshell, are that the assessee derives income from trading in kitchen materials. The return of income was filed by the assessee declaring total income at Rs.19,84,380/-. In this case, survey u/s 133A of the Act was conducted by the revenue on 7.10.2010. During the course of survey, the assessee surrendered total additional income of Rs.24,85,281/- i.e. on account of excess cash found at Rs.8,15,600/- and excess stock found at Rs.16,69,681/-. However, while filing the return of income, the assessee has included excess stock of Rs.9,71,031/- only. The Assessing Officer, therefore, required the assessee to justify this retraction. In response, the assessee stated that the Revenue has valued the stock of jewellery found at Rs.17,000/- per kg. whereas its value as per LIFO method was to be adopted at Rs.11,000/- per kg. and as such the assessee has shown the value of stock at Rs.11,000/- per kg. while filing the return of income. However, the

Assessing Officer was not satisfied with this explanation of the assessee since the assessee did not file any material/document in support of his claim. The Assessing Officer inferred that the version of the assessee was without any basis. The Assessing Officer, therefore, added difference of Rs.6,98,650/- to the total income of the assessee.

4. Being aggrieved with the addition made by the Assessing Officer, the assessee preferred first appeal before the learned CIT(A). The learned CIT(A) after considering the facts of the case in the light of the submissions of the learned counsel for the assessee, confirmed the addition with the following observations :-

“6.1 In this case, the stock of silver was valued by the appellant himself at the time of survey at Rs.34,000/- per kg and the purity of silver was stated to be 50% which gave the value of Rs.17,000/- per kg. There was no valuer involved and the A.O. has not substituted his valuation for the valuation of the appellant. Without prejudice to the same, the unaccounted stock found at the time of survey represents unaccounted investment and has to be valued at the market price on the date of survey. The appellant has reduced the

valuation by averaging the cost of stock i.e. by adding the value of stock as per books of accounts to the unaccounted stock and by dividing the same with the total quantity. This explanation and methodology is not correct. The stock as per books is valued in the case of appellant at average cost and the stock purchased in earlier years at lower value pushes down the average cost. However, excess stock is unaccounted investment during the year and has to be valued at market price. Therefore, ground no. 1 of the appeal is dismissed.”

5. Against the confirmation of the addition by the learned CIT(A), the assessee has now come up in appeal before the Tribunal.

6. Before us, the learned counsel for the assessee submitted that the assessee offered additional income on account of excess cash of Rs.8,15,600/-. However, since the valuation of excess stock was done at a higher figure during the survey proceedings, the assessee replaced correct stock valuation and surrendered Rs. 9,71,031/-. The learned counsel for the assessee also submitted that the assessee has been consistently following average cost method by applying LIFO system. The learned counsel for the assessee further

submitted that the Assessing Officer did not accept the assessee's contention and went on by taking income surrendered at Rs.24,85,281/- as against Rs.17,86,631/- offered by the assessee.

7. On the other hand, the learned DR while supporting the orders of the authorities below, submitted that since the excess stock is unaccounted investment during the year, the authorities below were justified in valuing the same at market price. He, therefore, submitted that the orders of the authorities below deserve to be affirmed.

8. After giving a thoughtful consideration to the submissions of the parties, we are of the view that the unaccounted stock found at the time of survey proceedings represents unaccounted investment and as such the same has to be valued at market price on the date of survey. In this case the assessee has reduced the valuation by averaging the cost of stock i.e. by adding the value of stock as per books of accounts to the unaccounted stock and by dividing the same with the total quantity. This practice of the assessee is against the method of valuation of stock. After considering the facts of the case, the learned CIT(A) has rightly held - "*However, Excess stock is unaccounted investment during the year and has to be valued at*

market price. This finding of the learned CIT(A) cannot be denied by any stretch of imagination. From the copy of the inventory of stock found out of accounts and treated as undisclosed investment of the assessee, it is clear that the stock was valued on the market price and the assessee did not raise any dispute regarding valuation of such stock at the time of signing the inventory. In this view of the matter, we are of clearly of the view that the authorities below have rightly made and sustained the addition in question in the present case. We, therefore, have no alternate but to confirm the orders of the authorities below which we hereby do.

9. In the result, the appeal of the assessee fails and is dismissed.

The order has been pronounced in open Court on 28th March, 2017.

Sd/-

लेखा सदस्य
(O.P.Meena)
Accountant Member

sd/

न्यायिक सदस्य
(C.M. Garg)
Judicial Member

March 28th 2017.

Dn/

