

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK  
'SMC' BENCH, CUTTACK**

**BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER**

**ITA No. 22/CTK/2017**  
Assessment Year : 2011-2012

Pradipta Kumar Pradhan, Prop. Jaganath Oil, At/PO: Pitapali, Khurda.	Vs.	ITO, Khurda Ward, Khurda.
PAN/GIR No. AIWPP 8060 B		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Sunil Kumar Mishra, AR  
Revenue by : Shri D.K.Pradhan, DR

**Date of Hearing : 17 /05/ 2017**  
**Date of Pronouncement : 17/05/ 2017**

**ORDER**

This is an appeal filed by the assessee against the order of CIT(A)-1, Bhubaneswar, dated 11.4.2016, for the assessment year 2011-12.

2. The sole grievance of the assessee in this appeal is that the Id CIT(A) erred in confirming the action of the Assessing Officer estimating the net profit @ 4% on the turnover.

3. I have heard the rival submissions and perused the orders of lower authorities and materials available on record. In the instant case, the facts of the case are that the assessee derives income from wholesale trading in

lubricants, tyres, tubes & filters. A survey under section 131A of the Act was conducted in the business premises of the assessee on 23.9.2010. The assessee filed the return of income on 25.11.2011 showing income of Rs.10,66,200/-. The Assessing Officer assessed the total income at Rs.29,46,690/- after estimation of profit and addition of income from other sources. During the course of assessment proceedings, the Assessing Officer asked the assessee to produce sale register, purchase register and stock register with all bills/vouchers in support of purchases & sales and also the cash book. The assessee did not furnish the same. The Assessing Officer proposed to complete the assessment u/s.144 in absence of books of account. No books of account were produced. Therefore, the Assessing Officer completed the assessment u/s.144 invoking the provisions of section 145(3) of the Act and estimated the profit @ 4% of the turnover.

4. The assessee challenged such estimation of 4% of the gross turnover before the CIT(A). The CIT(A) observed that during the course of assessment proceedings, the assessee failed to produce the cash book, ledger and stock register for examination even though specifically asked for by the Assessing Officer. In the absence of these vital books of account, the correctness of the profit disclosed by the assessee as per books could not be verified. He further observed that the correctness of the closing stock which has a definite bearing on the taxable profit also could not be verified in the absence of the stock register. The Assessing Officer resorted to section 145(3) of the Act and estimated the profit @4% of the turnover.

He observed that in the circumstances of the assessee's case, the invoking of section 145(3) by the Assessing Officer was perfectly justified. He observed that the only issue which remains to be decided is whether the estimation of profit @4% of the turnover was reasonable and not excessive. The assessee has disclosed a profit of 1.69% for the year under appeal which appears to be too low in the line of trade, the assessee is carrying on. The estimation of profit @4% by the Assessing Officer appears to be quite reasonable. The assessee deals in lubricants, tyres, tubes etc., the profit in the trading of which is in the vicinity of 4 to 5%. Keeping in view all these relevant factors, the CIT(A) held that the Assessing Officer was justified in estimating the net profit at 4% of the turnover in the absence of production of books of account.

5. Before me, Id Authorised Representative admitted that the assessee failed to produce books of account and other relevant registers for verification before the Assessing Officer and CIT(A). He submitted that the assessee is a wholesale trader in lubricants and, therefore, in this line of trade, generally net profit @ 1 to 2% is shown and hence, estimation of net profit @ 4% was excessive.

6. On the other hand, Id D.R. supported the order of the CIT(A) and submitted that in the given facts and circumstances of the case, the order of the CIT(A) was fully justified and should be upheld.

7. I find that the assessee has not challenged the rejection of book results of the assessee by the Assessing Officer in absence of production of books of account and other relevant registers and bills and vouchers. The grievance of the assessee is that the estimation of net profit @ 4% is excessive. I find that the CIT(A) has observed that the assessee has shown net profit @ 1.69%. In the above facts and circumstances of the case, I am of the considered view that it will meet the ends of justice, if the profit of the assessee is estimated by applying the rate of 3%. Therefore, I modify the order of the CIT(A) accordingly and partly allow the ground of the appeal of the assessee.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 17/05/2017 in the presence of parties.

Sd/-

(N.S Saini)  
**ACCOUNTANT MEMBER**

Cuttack; Dated 17 /05/2017  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : Pradipta Kumar Pradhan, Prop.  
Jaganath Oil, At/PO: Pitapali, Khurda.
2. The Respondent. ITO, Khurda Ward, Khurda
3. The CIT(A)-1, Bhubaneswar.
4. Pr.CIT-1, Bhubaneswar,
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY  
**ITAT, Cuttack**