

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

**Before Shri P.M. Jagtap, Accountant Member**

**I.T.A. No. 1020/KOL/ 2015  
Assessment Year: 2010-2011**

***Purna Chandra Pal Chowdhury,.....Appellant  
Choulpatty, Katwa,  
Burdwan-713 130  
[PAN : AFOPP 0532 K]***

**-Vs.-**

***Income Tax Officer,.....Respondent  
Ward-2(2), Burdwan,  
Aayakar Bhawan,  
Court Compound,  
Burdwan-713 101***

***Appearances by:***

***Shri Soumitra Choudhury, Advocate, for the assessee  
Shri Prabal Choudhury, JCIT, Sr. D.R., for the Department***

Date of concluding the hearing : January 07, 2016

Date of pronouncing the order : February 10, 2016

**O R D E R**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals), Burdwan dated 17.03.2015 for the assessment year 2010-11 and the solitary issue arising out of the same relates to the trading addition made by the Assessing Officer by estimating the income of the assessee by applying a higher Net Profit rate, which is partly sustained by the Id. CIT(Appeals).

2. As noted, at the outset, there is a delay of 47 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has filed an application seeking condonation of the said delay and keeping in view the reasons given therein, which are duly supported by an affidavit filed by the assessee, I am satisfied that there was a sufficient cause, which prevented the assessee from filing his appeal before the Tribunal in time. I, therefore, condone the said delay and proceed to dispose of the appeal of the assessee on merit.

3. The assessee in the present case is an individual, who is engaged in the business of trading of rice. The return of income for the year under consideration was filed by him on 24.09.2010 declaring total income of Rs.4,33,208/-. During the course of assessment proceedings, the assessee could not produce the books of account and other relevant documentary evidence for the verification of the Assessing Officer. It was also noted by the Assessing Officer that the Gross Profit declared by the assessee for the year under consideration was lower at 2.5% than the Gross Profit rate of 3.37% declared by the assessee in the immediately preceding year. He, therefore, proceeded to estimate the income of the assessee by applying Gross Profit rate of 3.3%, which resulted in a trading addition of Rs.4,87,030/-. On appeal, the Id. CIT(Appeals) found it more appropriate to estimate the income of the assessee by applying the Net Profit rate. Accordingly, he applied the Net Profit rate of 1.21% as declared by the assessee in the immediately preceding year as against the Net Profit rate of 0.87% declared by the assessee and restricted the trading addition made by the Assessing Officer to Rs.3,07,924/- thereby giving a relief of Rs.1,79,105/- to the assessee. Still aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. As pointed out by the Id. Counsel for the assessee, only one opportunity was effectively given to the assessee to produce the books of account and other relevant documentary evidence. He has also pointed out that a letter was filed by the assessee before the Assessing Officer on 18.12.2012 bringing it to his notice that the assessee was ready to produce all the books of account regularly maintained at any time, as may be convenient to the Assessing Officer. But the Assessing Officer did not give opportunity to the assessee to produce the same and passed the assessment order after more than a month on 30.01.2013 estimating the income of the assessee by applying higher profit rate for the failure of the assessee to produce the books of

account. He has contended that the assessee thus has not been given a proper and sufficient opportunity to produce the books of account and the matter may, therefore, be sent back to the Assessing Officer for giving such opportunity. After having perused the relevant material record, I find merit in the contention of the Id. Counsel for the assessee and since the Id. D.R. has also not raised material objection in this regard, I set aside the impugned order of the Id. CIT(Appeals) and restore the matter to the file of the Assessing Officer with a direction to make the assessment afresh after giving the assessee proper and sufficient opportunity to produce the books of account.

**5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.**

Order pronounced in the open Court on February 10, 2016.

**Sd/-**

**(P.M. Jagtap)**  
**Accountant Member**

**Kolkata, the 10<sup>th</sup> day of February, 2016**

- Copies to :
- (1) **Purna Chandra Pal Chowdhury,**  
**Choulpatty, Katwa,**  
**Burdwan-713 130**
  - (2) **Income Tax Officer,**  
**Ward-2(2), Burdwan,**  
**Aayakar Bhawan,**  
**Court Compound,**  
**Bufdwan-713 101**
  - (3) *Commissioner of Income-tax (Appeals), Burdwan,*
  - (4) *Commissioner of Income Tax, Kolkata*
  - (5) *The Departmental Representative*
  - (6) *Guard File*

*By order*

*Assistant Registrar,*  
*Income Tax Appellate Tribunal,*  
*Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**