

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : SMC-3 : NEW DELHI

BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER

ITA No.2467/Del/2015
Assessment Year : 2010-11

Delight Engineers,
C-95, Sector-8,
Noida.

Vs. ITO,
Ward 1(1), Sector 24,
Noida.

PAN: AAefd1135D

(Appellant)

(Respondent)

Assessee By : Shri K.C. Singhal, Advocate
Department By : Shri Rajesh Kumar, Sr. DR

Date of Hearing : 28.07.2016
Date of Pronouncement : 31.08.2016

ORDER

This appeal filed by the assessee is directed against the order of the CIT(A) dated 16.02.2015 for the assessment year 2010-11.

2. The assessee is a partnership firm carrying on manufacturing business and selling of corrugated boxes from craft papers. It filed its

return of income on 27.8.2010 declaring total income of Rs.6,71,500/-. The AO rejected the books of account for the various reasons given in his order and, thereafter, estimated the net profit at 6% of an estimated turnover of Rs.4 crores. Aggrieved, the assessee carried the matter in appeal without success. Further aggrieved, the assessee is before us.

3. After hearing the rival contentions, I find that the assessee has not seriously disputed the rejection of books of account. Hence, the same is upheld. The only issue that arises before me is the estimation of net profit. The estimation of turnover is also not disputed. A perusal of the chart given by the assessee of the calculation of net profit and gross profit demonstrates that for the impugned assessment year the assessee has declared more net profit than that was declared in the previous two years. In fact, the Id. AO has at page 5, para 3, observed as follows:-

“During the year on total turnover of Rs.3,96,81,153/- net profit at Rs.4,60,386/- has been disclosed which gives NP rate at 1.16% and as against 0.75% in the last year. No doubt on comparison the Net profit is better but the state of accounts told that true profits can not be determined until everything is transparent and clear. Recently, I have completed a case of a company (name not disclosed but can be disclosed to the appellate authorities) in similar activities had disclosed net profit of 1.52% which was enhanced to 6%. Taking the

same view in the matter, a net profit rate of 6% is applied. No doubt it was a case of disclosure of low net profit.”

4. For the assessment year 2008-09 and 2009-10, the net profit ratio disclosed was 0.58% and 0.76%. For the subsequent two assessment years, net profit for AY 2011-12 was 1.19% and for AY 2012-13 it was 1.51%. The AO adopted the NP rate @ 6%. This, in my view, is highly excessive. The past history of the case of the assessee has to be the basis for proper estimation of profits.

5. The assessee has rightly relied on the decision of the Hon'ble Jaipur Bench of the Rajasthan High Court in the case of *CIT vs. Gotan Lime Khanij Udhyog*, 256 ITR 243 (Raj) wherein it is held as follows:-

“Therefore, merely because there is some deficiency in the books of account or merely because of rejection of books of account it does not mean that it must lead necessarily to additions in the returned income of the assessee.”

6. Keeping in view the facts of the case, I am of the considered opinion that the addition made in this case on estimation basis has to be deleted as the income disclosed by the assessee is fair.

7. In the result, the appeal of the assessee is allowed in part.

The order pronounced in the open court on 31.08.2016.

Sd/-

[J. SUDHAKAR REDDY]
ACCOUNTANT MEMBER

Dated, 31st August, 2016.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.