

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC-I', NEW DELHI**

**Before Sh. N. K. Saini, Accountant Member**

**ITA No. 5428/Del/2016 : Asstt. Year : 2012-13**

Pawan Kumar Rekhan, Prop. Delhi Agro (India), 2658, Naya Bazar, Delhi-110006	Vs	Income Tax Officer, Ward-47(1), New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AADPR3788H</b>		

**Assessee by : Sh. B. L. Gupta, ITP**

**Revenue by : Sh. Ramjaneyulu, Sr. DR**

<b>Date of Hearing : 01.12.2016</b>	<b>Date of Pronouncement : 06.12.2016</b>
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**ORDER**

This is an appeal by the assessee against the order dated 27.09.2016 of ld. CIT(A)-16, New Delhi.

2. The only grievance of the assessee in this appeal relates to the sustenance of addition of Rs.14,56,730/- made by the AO on account of undervaluation of the closing stock by passing the order *ex-parte* u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as the Act).

3. Facts of the case in brief are that the assessee filed the return of income on 30.03.2013 declaring an income of Rs.2,74,568/- which was processed u/s 143(1) of the Act. Later on, the case was selected for scrutiny. The AO passed the *ex-parte* order by making an addition of Rs.14,56,730/- on account of valuation of the closing stock by observing that the assessee was following the method of valuation of closing stock

as cost or market price whichever was less and that the average cost price of the assessee was at Rs.34.17 per unit whereas the closing stock of 1,91,340 Kgs has been valued at Rs.26.55 per unit.

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) and furnished the written submission which has been incorporated at page nos. 2 & 3 of the impugned order. The Id. CIT(A) did not find merit in the submissions of the assessee by observing that passing of the order u/s 144 of the Act did not mean automatically that whatever the assessee had stated in his income tax return was accepted by the department. He further observed that no plausible reason had been given for non-compliance before the AO and even at the appellate stage, the assessee had not furnished the evidence to rebut the opinion of the AO.

5. Now the assessee is in appeal.

6. I have considered the submissions of both the parties and perused the material available on the record. In the present case, it appears that the Id. CIT(A) did not appreciate the submission of the assessee in the right perspective, particularly this submission that the total closing stock of 1,91,340 Kgs included Wheat quantity of 85840 Kg purchased @ Rs.11.71 per Kg and the said detail was furnished to the AO and that the Wheat and Rice were valued at the price of the purchases. In the present case, the AO also passed the assessment order *ex-parte* without considering the aforesaid details furnished by the assessee. I, therefore,

considering the totality of the facts deem it appropriate to set aside this case back to the file of the AO for fresh adjudication, in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

7. In the result, appeal of the assessee is allowed for statistical purposes.

(Order Pronounced in the Court on 06/12/2016)

**Sd/-**  
**(N. K. Saini)**  
**ACCOUNTANT MEMBER**

**Dated: 06/12/2016**

\*Subodh\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**