

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री भागचन्द्र, लेखा सदस्य एवं श्री कुल भारत, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI BHAGCHAND, AM AND SHRI KUL BHARAT, JM

आयकर अपील सं./ITA No. 1022/JP/2016  
निर्धारण वर्ष/Assessment Year : 2013-14.

Shri Rajiv Mehta, Prop. S.S. Dairy, Opp. Natraj Cinema, Station Road, Kota.	बनाम Vs.	The Asst. Commissioner of Income Tax, Circle-2, Kota.
स्थायी लेखा सं./जीआईआर सं./PAN No. AAIPM 6393 A		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Mahendra Gargieya (Advocate)  
राजस्व की ओर से/ Revenue by : Shri Rajendra Singh (JCIT)

सुनवाई की तारीख/ Date of Hearing : 15.09.2017.  
घोषणा की तारीख/ Date of Pronouncement : 18/09/2017.

आदेश/ ORDER

**PER SHRI KUL BHARAT, JM.**

This appeal by the Assessee is directed against the order of Ld. CIT (A) Kota, dated 16.09.2016 pertaining to A.Y. 2013-14.

The Assessee has raised the following grounds of appeal:-

- "1. The impugned order u/s 143(3) dated 19.01.2016 is bad in law and on facts of the case, for want of jurisdiction and various other reasons and hence, the same kindly be quashed.
- 2.1. Rs. 4,00,000/-: the Ld. CIT(A) erred in law as well as on the facts of the case in confirming the application of Sec. 145(3) of the Act. The provision so invoked by the AO and confirmation by the Ld.CIT(A), being contrary to the provisions of law and facts, the same kindly be quashed. Consequently, the trading addition of Rs. 4,00,000/- be deleted in full.

Alternatively and without prejudice to above

- 2.2 The Ld. CIT(A) further erred in law as well as on the facts of the case in confirming trading addition up to Rs. 4,00,000/-. The addition so made by the AO and partly sustained by the CIT(A) is totally contrary to the provisions of law and facts on the record and hence, the addition may kindly be deleted in full.
3. The Ld. AO further erred in law as well as on the facts of the case in charging interest u/s 234A, 234B, 234C, & 234D of the Act and as also in withdrawing interest u/s 244A of the Act. The appellant totally denies its liability of charging and withdrawal of any such interest. The interest so charged/withdrawn, being contrary to the provisions of law and facts, kindly be deleted in full.
4. The appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing."

2. Briefly stated the facts of the case are that the case of the assessee was picked up for scrutiny assessment and the assessment was framed under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the Act) vide order dated 19.01.2016. While framing the assessment, the Assessing Officer rejected the books of accounts and estimated the profit by applying gross profit at 25.596% hence made addition of Rs. 21,34,520/-. The Assessing Officer also made disallowance out of interest expenses and also adhoc disallowances. Against this, the Assessee preferred an appeal before Ld. CIT(A), who after considering the submissions, restricted the addition out of trading addition of Rs. 4 lakhs and deleted the other disallowances.

3. The only effective ground in the assessee's appeal is against sustaining the addition of Rs. 4 lakhs.

3.1 Ld. Counsel for the assessee reiterated the submissions as made in the written submissions. Ld. Counsel for the assessee submitted that Assessing Officer was not justified in rejecting the books of accounts. He submitted that Assessing Officer has observed that the assessee has produced books of accounts which were examined on tax cheque basis. He submitted that the authorities below failed to appreciate the fact, day to day stock register was not possible to be maintained in the line of business.

3.2 On the contrary, Ld. D/R supported the order of the authorities below on rejection of books of accounts.

3.3 We have heard the rival contentions, perused the material available on record and gone through the order of the authorities below. We find that the AO had rejected books of accounts on specific defects and estimated the profit on the basis of average GP rate of the last five years. However, the Ld. CIT(A) has sustained the addition to the extent of Rs. 4 lakhs so far rejection of books of accounts is concerned. Therefore, we do not find any fault into the finding of the AO; therefore, rejection of books of accounts is upheld.

3.4 Another contention of the Ld. Counsel for the assessee is that the Ld. CIT(A) was not justified in restricting the addition, since, we have upheld the rejection of books of accounts on the basis of estimation of gross profit by the AO which is as per the law laid down by the Jurisdictional High Court. The Revenue has not come in appeal qua the addition deleted by the Ld. CIT(A). Therefore, the finding of the Ld. CIT(A) is affirmed. Grounds raised in this appeal are rejected.

4. In the result, appeal of the Assessee in ITA No. 1022/JP/2016 is dismissed.

Order is pronounced in the open court on Monday, the 18<sup>th</sup> day of September 2017.

Sd/-  
( भागचन्द )  
( BHAGCHAND)  
लेखा सदस्य / Accountant Member

Jaipur

Dated:- 18/09/2017.

Pooja/

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Rajiv Mehta, Kota.
2. The Respondent – The ACIT, Circle-2, Kota.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 1022/JP/2016)

Sd/-  
( कुल भारत )  
( KUL BHARAT )  
न्यायिक सदस्य / Judicial Member

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar