



**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.161/Rpr/2014
Assessment Year : 2011-2012

Dy. Commissioner of Income Tax -1(1), Raipur	Vs.	Smt. Rajkumari Bahal, Prop. S.P.Traders, Bombay Market, Raipur
PAN/GIR No.		
(Appellant)	..	(Respondent)

Assessee by : Shri P.C.Maloo Jain/ A.M. Jain, AR
Revenue by : Shri Ajhit Kumar Laskar, DR

Date of Hearing : 12/01/ 2018
Date of Pronouncement : 15/01/ 2018

ORDER

Per Pavan Kumar Gadale, JM

This is an appeal filed by the revenue against the order of the CIT(A)-
Raipur, dated 20.6.2014 for the assessment year 2011-2012.

2. The revenue has raised the following grounds of appeal:

" 1. Whether in law and on facts and circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.31,25,100/- made by the AO out of excess stock found during survey u/s.133A of the I.T.Act, 1961.

2. Whether in law and on facts and circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.5,37,309/- made by the AO out of excess cash found during survey u/s.133A of the I.T.Act, 1961."



3. The relevant facts are that the assessee is an individual and proprietor of M/s S.P. Traders deriving income from business of wholesale trading in cycle and cycle parts. A survey under section 133A was conducted in the business premises of the assessee on 15.4.2010. During the survey, the assessee had surrendered income to the tune of Rs.40,31,425/-. Out of surrendered income of Rs.40,31,425/-, the assessee surrendered Rs.9,06,325/- on account of cash and Rs.31,25,100 on account of stock. The Assessing Officer required the assessee to present the books of account. In reply, the assessee submitted that the books of account were destroyed in fire. This explanation of the assessee was not acceptable to the Assessing Officer, therefore, he added Rs.31,25,100/- as excess stock surrendered by the assessee.

Further, the assessee had surrendered cash of Rs.5,37,309/- during the survey operation. The Assessing Officer observed that the surrendered amount was the excess cash found during the survey; therefore, same was added to the income of the assessee.

4. On appeal, the CIT(A) deleted both the additions made by the Assessing Officer.

5. At the time of hearing, Id D.R. submitted that the CIT(A) erred in deleting the additions irrespective of the fact that excess stock was available



in the survey operation conducted on 15.4.2010 whereas the assessee in the assessment proceedings submitted that due to fire the books of account were not available. The Assessing Officer has made absolute findings with respect to stock position in his order at pages 2 to 4 of the order and has observed that the assessee has not produced the proof and genuineness irrespective of change of closing stock figures found in the course of survey. Similarly, the discrepancies in the stock valuation of physical stock and brought forward stock, there is difference of Rs.31,25,100/-, which was added. On appeal, the CIT(A) having considered the closing stock and opening stock dealt at pages 3 to 7 of the order was of the opinion that the Assessing Officer erred in making addition of excess stock as per books of account and also the difference in opening balance as per books and stock valuation of Rs.31,25,100/- cannot be relied. Similar is the situation in case of excess found during the survey of Rs.5,37,309/-

6. Before us, Id D.R. could not point out any specific error in the order of the CIT(A) or file any supporting documentary evidence to state that the assessee has suppressed closing stock. Further, Id A.R. supported with paper book containing details of financial statement and also the fact that the fire occurred in the assessee's business premises referred at paper book page 14 & 15. Accordingly, we are of the substantive view that the CIT(A)



has considered the findings of the Assessing Officer and statement of the assessee and materials on record and took a conscious decision. Therefore, we are inclined to confirm his order and dismiss the grounds of appeal of the revenue.

7. In the result, appeal of the revenue is dismissed.

Order pronounced on 15 /01/2018.

Sd/-

(N.S Saini)
ACCOUNTANT MEMBER

sd/-

(Pavan Kumar Gadale)
JUDICIAL MEMBER

Raipur; Dated 15 /01/2018
B.K.Parida, SPS

Copy of the Order forwarded to :

1.	The Appellant : Dy. Commissioner of Income Tax -1(1), Raipur
2.	The Respondent. Smt. Rajkumari Bahal, Prop. S.P.Traders, Bombay Market, Raipur
3.	The CIT(A)- Raipur
4.	Pr.CIT- Raipur
5.	DR, ITAT, Raipur
6.	Guard file. //True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Raipur