

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

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री भागचंद, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI BHAGCHAND, AM

आयकर अपील सं./ITA No. 580/JP/2013
निर्धारण वर्ष/Assessment Year: 2009-10

Assistant Commissioner of Income Tax, Circle-1, Kota.	बनाम Vs.	M/s Shiv Edibles Ltd., 237-A, Talwandi, Kota.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAICS 0274 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Smt. Neena Jeph (JCIT)
निर्धारिती की ओर से / Assessee by : Shri Mahendra Gargieya (Adv)

सुनवाई की तारीख / Date of Hearing : 20/02/2018
उदघोषणा की तारीख / Date of Pronouncement : 26/02/2018

आदेश / ORDER

PER: BHAGCHAND, A.M.

This is an appeal filed by the revenue emanates from the order of the Id. CIT(A), Kota dated 21/03/2013 for the A.Y. 2009-10, wherein the revenue has taken following grounds of appeal:

"On the facts and in the circumstances of the case, the Id. CIT(A) has erred in:-

- (i) holding that the A.O. was not justified in rejecting books of account and estimating profit without pointing out any specific effect;*
- (ii) deleting the trading addition of Rs. 30,21,370/- by adopting GP rate of 4.9%, which was agreed to by the assessee during the course of assessment proceedings."*

(iii) *deleting the addition of Rs. 7,37,336/- made by the A.O. U/s 14A r.w. Rule 8D."*

2. The assessee company is engaged in extraction and refining of soyaben and mustered oil. The return of income was filed on 30/09/2009 declaring total income of Rs. 8,83,52,180/-. The case was selected for scrutiny. The Assessing Officer has finalized the assessment U/s 143(3) of the Income Tax Act, 1961 (in short the Act) on 22/12/2011 at total income of Rs. 9,16,10,710/- by making various additions. The Id. CIT(A) has allowed the appeal of the assessee.

3. Both the grounds of appeal are interlinked and the issue involved is deleting the trading addition of Rs. 30,21,370/- made by the Assessing Officer after rejection of books of accounts. The Id. CIT(A) has allowed this ground of appeal by holding as under:

"I have verified the details and it was seen that assessee has maintained complete details of stock.

The yield and shortage was also found to be in acceptable range.

The Assessing Officer made the addition without pointing out any specific defect.

I also found that there was drop in price of oil products and the same was reason for drop in G.P.

Considering the above the Assessing Officer was not justified in rejecting books of accounts and estimating profit.

The Assessing Officer is directed to delete the addition of Rs. 30,21,370/-.

This ground of appeal is, therefore, allowed."

4. Now the revenue is in appeal before the ITAT. The Id. DR has relied on the order of the Assessing Officer. On the contrary, the Id AR of the assessee has reiterated the arguments as made before the Id. CIT(A) and prayed to dismiss the appeal of revenue.

5. After hearing both the sides, the Bench find that the books of account of the assessee were rejected on account of various discrepancies noted by the Assessing Officer on account of shortage, valuation of closing stock and on account of low yield. The Assessing Officer has also clearly noted that the certain expenses has been increased disproportionately in relation to increase in turn over for example, packing material expenses were of Rs. 9,78,779/- in the A.Y. 2008-09, the same have been increased to 53,96,886/-. There was no closing stock of packing material. The turnover for A.Y. 2008-09 was more than 262 crores while the turnover for the year under consideration was around 300 crores. Thus, the increase in the expenditure on packing material is definitely disproportionate and the same have not been explained by the assessee. Further there is vast difference in the rate of opening stock, sales and closing stock. Such differences have been categorized as under:

	Qty. shown as per cl. Stock (Kg)	Rate difference per kg.	Total difference	

Refined oil	419602	13.17	55,26,158	
Crude oil	398051	13.41	53,37,863	
Mustered oil	251129	11.21	28,15,156	

The assessee has not explained this difference with cogent reasons. Therefore, all these facts clearly establish that the book result declared by the assessee were not reliable. The Id. CIT(A) without giving finding on these various specific discrepancies noticed by the Assessing Officer has simply deleted the addition, therefore, the findings of the Id. CIT(A) are perverse. We set aside the order of the Id. CIT(A) and sustain the order of the Assessing Officer.

6. In the result, the appeal of the revenue stands allowed.

Order pronounced in the open court on 26/02/2018.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 26th February, 2018

*Ranjan

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

1. अपीलार्थी / The Appellant- The ACIT, Circle-1, Kota.
2. प्रत्यर्थी / The Respondent- M/s Shiv Edibles Ltd., Kota.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 580/JP/2013)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar