

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD %SMC+BENCH

**Before: Shri Rajpal Yadav, Judicial Member  
And Shri Amarjit Singh, Accountant Member**

**ITA No. 2576/Ahd/2011  
Assessment Year 2008-09**

|   |    |  |
|---|----|--|
| M/s Kasturbhai Motilal &<br>Bros. 514, New Cloth<br>Market, O/s. Raipur gate,<br>Ahmedabad-380002<br>PAN: AACFK1169N<br>(Appellant) | Vs | The ITO,<br>Ward-11(4),<br>Ahmedabad<br>(Respondent) |
|---|----|--|

**Revenue by: Shri Mudit Nagpal, Sr. D.R.  
Assessee by: Shri M.K. Patel, A.R.**

Date of hearing : 12-03-2018  
Date of pronouncement : 23-04-2018

**आदेश/ORDER**

**PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-**

This assessee's appeal for A.Y. 2008-09, arises from order of the CIT(A)-XVI, Ahmedabad dated 08-08-2011, in proceedings under section 143(3) of the Income Tax Act, 1961; in short %the Act+.

2. The assessee has raised following grounds of appeal:-

*"The Ld. C.I.T(A)-XVI Ahmedabad ought to have accepted the submission and reasons for fall in Gross Profit Percentage of the relevant year.*

*The Assesses had declared G.P. 0.46% on the total Turnover of Rs. 9,75,51,110/- and thereby making addition of R. 12,53,002/- to the total income.*

*The Assessing Officer had estimated the G.P. Percentage @ 1.75% instead of .46% shown.*

*The appellant Assesses has given the full explanation for fall in G.P. Percentage.*

*The assessee maintains completed quantity of the purchases and sales.*

The assessee had stated that the fall G.P. Percentage was due to excess shrinkage of Cloth and Shortage. The explanation was also filed before the officer and explained to Ld. C.I.T. (A)-XVI, Ahmedabad.

The C.I.T. (A) -XVI has wrongly concluded that the GP Stock is not properly valued and therefore the estimate of Gross Profit Percentage @ 1.75% is reasonable on facts of the case.

It is submitted and prayed that the estimate of G.P. @ 1.75% is very high and on facts of the case the Shrinkage being very high and abnormal the book result G.P. Percentage be accepted and addition be deleted."

3. In this case, return of income declaring total income of Rs. 9,13,478/- was filed on 30<sup>th</sup> August, 2008. Subsequently, the case was selected under scrutiny by issuing of notice u/s. 143(2) of the act on 27<sup>th</sup> August, 2008. The assessee is engaged in the business of trading of cloth. During the course of assessment proceedings, the assessing officer has scrutinized the comparative chart of gross profit of the assessee for the last three years as under:-

| A/c. Year  | Sales         | Purchases     | G. P. Percentage |
|------------|---------------|---------------|------------------|
| 31-03-2006 | 7,96,76,473/- | 7,91,28,869/- | 1.72%            |
| 31-03-2007 | 8,74,00,975/- | 8,57,42,899/- | 2.21%            |
| 31-03-2008 | 9,75,51,110/- | 9,52,94,508/- | 0.46%            |

From the above comparison, the assessing officer observed that gross profit declared during the year under consideration was on the lower side on comparing to the preceding year. On verification of invoice/bill of the purchase parties, the assessing officer has noticed that assessee has shown different rate of purchases of cloth from its sister concern M/s. K.M. Super Cloth Pvt. Ltd. while valuing the closing stock. The variation in rates shown in the closing stock and reflected in the invoice bills from sister concern of the assessee is reproduced as under:-

| Rate as per your submission of closing stock |             | Rate as per the invoice /Bill of K. M. Super Cloth Market Pvt. Ltd. |       |       |
|--|-------------|---|-------|-------|
| Quality of cloth                             | Rate        | Quality of cloth  | Rate  |       |
| 40x40  | 72/72 12.56 | 40x40   | 72/72 | 15.56 |

|           |          |       |           |          |                          |
|-----------|----------|-------|-----------|----------|--------------------------|
| 40x40     | 76/76    | 13.71 | 40x40     | 76/76    | 16.71                    |
| 40x40     | 84/76    | 14.23 | 40x40     | 84/76    | 28.27 & 29.48            |
| 40x40     | 88/84    | 17.34 | 40x40     | 88/84    | 20.73                    |
| 45x40     | 76/72    | 13.69 | 45x40     | 76/72    | 16.64                    |
| 20x20     | 52/56    | 15.92 | 20x20     | 52/56    | —                        |
| 30x30     | 80/72    | 16.35 | 30x30     | 80/72    | 20.83 & 20.22            |
| 2/40x2/40 | 52/52    | 19.55 | 2/40x2/40 | 52/52    | 21.90 & 21.51            |
| 2/60/30   | 76/72    | 19.19 | 2/60/30   | 76/72    | 27.85 & 24.69<br>& 24.21 |
| 2/60x2/60 | 76/72    | 22.45 | 2/60x2/60 | 76/72    | —                        |
| 40x40     | 84/76    | 23.88 | 40x40     | 84/76    | 19.67 & 17.91            |
| 50x50     | 80/76 PC | 13.54 | 50x50     | 80/76 PC | 14.74 & 15.92<br>& 15.35 |
| 50x45 PC  | 80/72 PC | 13.73 | 50x45 PC  | 80/72 PC | 14.74                    |
| 40x40     | 76/76 PC | 14.40 | 40x40     | 76/76 PC | 16.71 & 16.40            |

In view of the above discrepancy, the assessing officer has considered that assessee has undervalued the closing stock, therefore, the books of account of the assessee was rejected u/s. 145 of the act. The assessee has also submitted before the assessing officer that gross profit has been decreased due to the shrinkages of cloth at the time of processing. The explanation of the assessee was not accepted by the assessing officer as he found that cost price of the closing cost was more than the valuation of closing stock shown by the assessee. Consequently, the assessing officer has determined the gross profit of the assessee @ 1.75% and made addition of Rs. 12,53, 002/- in the total income of the assessee.

4. Aggrieved assessee filed appeal before the Id. CIT(A). The Id. CIT(A) has sustained the addition made by the assessing officer by stating that assessing

officer was kind enough in allowing the benefit of increase in shrinkages/shortage while estimating gross profit rate and was justified in applying the gross profit rate of 1.75% of the declared sales. During the course of appellate proceedings before us, the Id. counsel has submitted paper book containing audit report, submission made before the assessing officer and Id. CIT(A), comparative statement of gross profit, certificate of shrinkages and detail of purchase/sale stocks etc. He has contended that Id. CIT(A) is not justified in sustaining the addition made by the assessing officer. On the other hand, the Id. departmental representative has supported the order of assessing officer and Id. CIT(A)

5. We have heard both the sides and perused the material on record carefully. During the course of scrutiny assessment the assessing officer noticed that gross profit shown by the assessee during the year under consideration was very low as compared to the preceding years. On scrutiny, of the purchase bills for purchases made by assessee from its sister concern M/s. K.P. Super Market Pvt. Ltd., he noticed that assessee has not applied the actual cost of purchase rate for valuing the closing stock in its books of account. He has noticed that assessee has adopted less rate for valuing the closing stock than the actual rate appearing in the purchase bill for the purchases made from its sister concern. He has further noticed that assessee has made most of the purchases from its sister concern and after processing of cloth all the sales were made to another sister concern M/s. H Jatinbhai & Company. In the audit report, assessee has reported that closing stock is valued at cost price, however, the closing stock was valued at the price less than the cost price. In view of the above mentioned discrepancy, the assessing officer has rejected the book result as per the provision of section 145(3) of the act.

We have noticed that there was not much difference in the shrinkages of cloth from the preceding year as reported by the assessing officer which was 8.72% for the financial year 2006-07 and 9.8% for the financial year 2007-08. Therefore, this ground of the assessee that reason for fall in the GP of the profit

was on account of shrinkages of cloth while processing is not appropriate because the assessing officer has already excluded the excess shrinkages of 0.46% during the year as compared to preceding year and estimated the gross profit @ 1.75% as against gross profit of 2.21% in the preceding year. After considering the above facts and material, we observe that assessee has failed to substantiate the reason for fall in the gross profit with supporting material, therefore, we do not find any reason to interfere in the finding of the Id. CIT(A). Accordingly the appeal of the assessee is dismissed.

6. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 23-04-2018

**Sd/-**  
**(RAJPAL YADAV)**  
**JUDICIAL MEMBER**  
**Ahmedabad : Dated 23/04/2018**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

आदेश का प्रतिलिपि भेजना / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपील आधिकरण,  
अहमदाबाद