

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC' NEW DELHI**

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 6090/Del/2017

Assessment Year: 2014-15

U.P. HANDLOOM FACTORY,
C/O M/S MALIK & CO., (ADV.),
305/7, THAPAR NAGAR,
MEERUT CITY

(PAN: AAAFU2201K)

(ASSESSEE)

VS. INCOME TAX OFFICER,
WARD 2(4),
MEERUT

(RESPONDENT)

Assessee by: SH. SANJAY MALIK, ADV.

Revenue by: MS. ASHIMA NEB, SR. DR.

ORDER

This appeal is filed by assessee against the Order dated 18.9.2017 passed by the Ld. CIT(A), Meerut relating to Assessment Year 2014-15.

2. The grounds raised by the assessee read as under:-

- “1. That the declared income of Rs. 84,000/- as per computation statement filed along with income tax return and based on books of accounts maintained in the regular course of business and duly supported by various account statements filed in the course of assessment proceedings ought to have been accepted since no error of omission or commission existed nor found and detected.
2. That on the facts and in law the rejection of declared version and the estimate of income by application of

net profit rate of 1.5% as against declared net profit rate of 0.29% deserves to be quashed and annulled. The estimated income based on application of net rate of 1.5% deserves to be deleted.

3. *That the levy of interest u/s 234B and 234C deserves to be quashed and deleted being void, illegal and without jurisdiction.*

3. The brief facts of the case are that the assessee filed return declaring taxable income of Rs. 84,000/- on 07.9.2015. The case of the assessee was selected for scrutiny and notice u/s. 143(2) of the Act was issued on 08.9.2015 and served upon the assessee. Subsequently notices u/s. 142(1) were served to the assessee on various occasions for furnishing of cash book, ledger and bill/voucher, but the same was not furnished by the Assessee. Accordingly, in the absence of the books of accounts, the AO simply proceeded to apply 8% and income of the assessee has been assessed at Rs. 28,15,710/- against the return income of Rs. 84,000/- vide order dated 07.12.2016 passed u/s. 143(3) of the Act. Aggrieved with the assessment order, the assessee appealed before the Ld. CIT(A), who vide his impugned order dated 18.9.2017 has partly allowed the appeal of the assessee. Against the impugned order, the assessee is in appeal before the Tribunal.

4. Ld. Counsel of the assessee stated that the declared income of Rs. 84,000/- as per computation statement filed alongwith income

tax return and based on books of accounts maintained in the regular course of business and duly supported by various account statements filed in the course of assessment proceedings ought to have been accepted since no error of omission or commission existed nor found and detected. He further stated that rejection of declared version and estimate of income by application of net profit rate of 1.5% as against declared net profit rate of 0.29% deserves to be quashed and annulled and also requested that the estimated income based on application of net profit of 1.5% deserve to be deleted.

5. On the contrary, Ld. DR relied upon the impugned order and stated that he has passed a well reasoned order which does not need any interference.

6. I have heard both the parties and perused the records, especially the impugned order. I find that assessee had filed return declaring taxable income of Rs. 84,000/- on 07.9.2015. The case of the assessee was selected for scrutiny and notice u/s. 143(2) of the Act was issued on 08.9.2015 and served upon the assessee. Subsequently notices u/s. 142(1) were served to the assessee on various occasions for furnishing of cash book, ledger and bill/voucher, but the same was not furnished by the Assessee. Accordingly, in the absence of the books of accounts, the AO simply proceeded to apply 8% and income of the assessee has been assessed at Rs. 28,15,710/- against the return income of Rs. 84,000/- vide order dated 07.12.2016 passed

u/s. 143(3) of the Act and aggrieved with the assessment order, the assessee appealed before the Ld. CIT(A), who vide his impugned order dated 18.9.2017 has partly allowed the appeal of the assessee by observing that AO on his part in the absence of books of accounts simply proceeded to apply 8% net profit ignoring the fact that this is an auditable case and the audit report was no record. He also did not bother to check whether in the past case has been subjected to scrutiny u/s. 143(2) of the Act and what has been the outcome of such scrutiny. I further note that A.R. of the assessee has given a chart which mentioned at page no. 3 of the impugned order wherein AYrs. 2010-11 & 2012-13, the case was subjected to scrutiny and the trading results were not disturbed. However, the AO has not made any effort to bring on record comparable cases of the same line in order to draw fair assessment of the prevailing profit rates in this line of business. In such circumstances, Ld. CIT(A) has rightly observed that it would be judicious to have look at the net profit rate of assessee in the past since this is a trading concern and not a manufacturing unit. In trading it is a more appropriate to draw an estimate from the net profit rate shown. In the given facts and circumstances apply such net profit rate that has some bearing and nexus with the rates of net profit that have been accepted in the past. Therefore, Ld. CIT(A) has rightly held that it is expedient and proper to apply net rate of 1.5% which is the average of 0.29% declared this year

and 2.65% declared last year. The difference in the declared income of Rs. 84,000/- and the net profit so worked out was treated as additional income. Consequently, the AO was rightly directed to delete the addition of Rs. 28,15,710/- and re-calculate profit as per the rate recommended in this order and work out the additional income of the assessee, which does not need any interference on my part, hence, I uphold the action of the Ld. CIT(A) and dismiss the appeal filed by the assessee.

7. In the result, the appeal filed by the Assessee stands dismissed.

Order pronounced on 01/06/2018.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 01/06/2018

“SRBHATNAGAR”

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

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By Order,

Assistant Registrar, ITAT, Delhi Benches