

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

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 233/JP/2018
निर्धारण वर्ष/Assessment Year : 2013-14

Shri Radhey Shyam Laddha Prop. M/s Raja India Co. D-263, Bhamashah Mandi Anantpura, Kota,	बनाम Vs.	The ACIT, Circle-2, Kota.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAHPL 3516 F		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से / Assessee by : Shri B.L. Bhojwani (C.A.)
राजस्व की ओर से / Revenue by : Shri S.K. Jain (JCIT)

सुनवाई की तारीख / Date of Hearing : 14/06/2018
उदघोषणा की तारीख / Date of Pronouncement: 18/06/2018

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 08.11.2017 of Id. CIT(A), Kota for the assessment year 2013-14.

2. There is delay of 2 days in filing the present appeal. The assessee has filed an application for condonation of delay which has been supported by an affidavit as well as medical certificate of the assessee.

3. We have heard the Id. AR as well as the Id. DR and carefully perused the reasons explained by the assessee for delay of 2 days in filing the present appeal. We find that the present appeal was sent by the assessee through speed post dated 09.02.2018 however, the appeal papers were received by the registry of the Tribunal on 15.02.2018 and hence, the registry has computed the limitation as on the date of receipt of appeal paper. Accordingly, in view of the facts and circumstances of the case that the delay in filing the present appeal of 2 days is attributed to the time taken by the Postal authority in delivery of the speed post made by the assessee on 09.02.2018 which was delivered on 15.02.2018. Hence, we condone the delay of 2 days in filing the present appeal.

4. The assessee has raised the following grounds:-

"1. That the learned Assessing officer has erred on the facts and in the circumstances of the case and in law in valuing the closing stock at average purchases price even though the assessee was consistently valuing the stock at market price and the learned commissioner of Income Tax (Appeals) too has similarly erred in confirming the action of the learned Assessing Officer.

2. Without prejudice to Ground No. 1:

That the learned Commissioner of Income Tax (Appeals) has erred on the facts and in the circumstances of the case in sustaining the addition to the extent of Rs. 3,00,000/- out of the addition of Rs. 15,28,990/- made by the learned Assessing Officer

on account of enhancement in the valuation of various items of closing stock."

5. The dispute in the case is regarding the addition of Rs. 3 lacs sustained by the Id. CIT(A) made due to the valuation of closing stock of various items.

6. We have heard the Id. AR as well as the Id. DR and considered the relevant material on record. At the outset we note that an identical issue has been considered and decided by this Tribunal in assessee's own case for the assessment year 2011-12 vide order dated 21.05.2018 in ITA No. 97/JP/2017 in para 3 & 4 as under:-

"3. The Id. CIT(A) has given part relief to the assessee by holding as under:

"I have gone through assessee's submission and AO's findings.

As regards Ground of appeal No. 1, the same issue of valuation of closing stock had also come into consideration in the assessee's case for A.Y 2009-10 and my predecessor CIT (A) vide appeal order no 551/11-12 dated 26.02.2013 had taken the value of closing stock on estimation basis in respect of most of the items/commodities mentioned in this Ground.

Following the same line of decision, I am of the opinion that since the pricing of these items are very volatile and fluctuate year to year, the only method of valuation can be estimation in the absence of proper and minute detailing adopted by the assessee

as well as the A.O, who adopted the average pricing method. Further, since the assessee has been following the same method year after year, the legal precedents on the method are in his favour.

*Looking to the totality of the facts involved, since the assessee has also not been able to justify his arguments regarding most of the **Bardana** being used and old, the valuation is enhanced from 11/- per bag adopted by him to Rs. 16/- per bag but reduced from the figure of Rs. 26.27/- taken by the A.O being very high and based on average of total purchases when average sale rate is 27/-.*

*The addition would be 20,210 bags *5/- which would be equal to Rs. 101, 050/-. The balance addition of Rs. 1,87,347/- is to be deleted.*

*As regards the addition on closing stock in the **Gunwar** account, it is seen that in the earlier year order referred above, the CIT (A) had confirmed a lump sum amount towards this commodity. In the current appeal also, the valuation taken by the A.O appears to be on the higher side considering the submission made by the assessee and the facts examined. The addition in the valuation of closing stock is restricted to Rs. 1,00,000/-. The balance addition of Rs. 8, 01,064/- is directed to be deleted.*

*As regards the addition on account of **oil seeds** also the A.O cannot take the average purchase price as the basis in the absence of qualitative and commodity wise analysis. The addition is accordingly restricted to Rs. 50,000/-. The balance addition of Rs. 1,23,346/- is directed to be deleted.*

*As regards the addition made in respect of **Kirana** items, the quantum being very low, the action of the A.O is not held to be unjustified and the addition of Rs. 9,164/- is accordingly confirmed.*

*As regards the addition made in respect of **Dalhan** account, my predecessor had held in the above referred appeal order that since the assessee did not maintain a stock register, an estimated addition was required to be sustained. Following the same line of decision, I am of the view that in the present appeal, it will be fair to restrict the addition to Rs. 1, 00,000/-. The balance addition of Rs. 5, 98,854/- is directed to be deleted.*

*As regards the addition made on **maize/Jowar** account, the quantum being very low, the action of the A.O is not held to be unjustified and the addition of Rs. 11,038/- is accordingly confirmed.*

*As regards the addition made in respect of **wheat** account also the A.O cannot take the average purchase price as the basis in the absence of qualitative and commodity wise analysis. The addition is accordingly restricted to Rs. 25,000/-. The balance addition of Rs. 1,30,904/- is directed to be deleted.*

Thus, the total addition confirmed on this Ground comes to Rs.3,96,252/- and the balance addition of Rs. 18,61,725/- is directed to be deleted.”

4. After hearing both the sides at length and considering the various factual aspects of the matter, we are of the view that the Id. CIT(A) has sustained small additions. The facts regarding the Bardana used and old the value adopted by the assessee's A.O. and average price has been specifically dealt by the Id. CIT(A). Since this item was used/old hence the cost or market value cannot be the basis of valuation for stock. The Id. CIT(A) has adopted the reasonable basis to value it and the addition of Rs. 1,01,050/- has been rightly sustained. However, additions in the case of valuation of closing stock of other items, has been sustained on ad hoc basis. In view of these facts, the addition in respect of closing stock for the Gunwar, oil seeds, kirana, dalhan, maize/jowar and wheat are sustained on ad hoc basis which is

not justified. Accordingly, we direct to delete the addition so sustained by the Id. CIT(A).

The Id. AR of the assessee has pointed out that except the addition made on account of valuation of bardana stock the Tribunal has deleted the addition sustained by the Id. CIT(A) for the assessment year 2011-12. For the year under consideration the assessee has not raised any issue before the Id. CIT(A) regarding addition on account of valuation of closing stock of Bardana (packaging material). The Id. DR has not disputed the facts that the addition on account of valuation of closing stock has been made by the AO on adhoc basis which was though reduced by the Id. CIT(A) however, the restriction of the addition by the Id. CIT(A) is also on adhoc basis . In view of the decision of this Tribunal in assessee's own case for the assessment year 2011-12 we delete the addition sustained by the Id. CIT(A) on account of valuation stock of various items.

In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 18/06/2018

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य/Accountant Member

Sd/-
(विजय पाल राव)
(Vijay Pal Rao)
न्यायिक सदस्य/Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 18/06/2018.

*Santosh.

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

1. अपीलार्थी / The Appellant- Shri Radhey Shyam Laddha, Kota.
2. प्रत्यर्थी / The Respondent- ACIT. Circle-2, Kota.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 233/JP/2018}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar