

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

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

आयकर अपील सं./ITA No. 889/JP/2017
निर्धारण वर्ष/Assessment Year : 2012-13.

Shri Tara Chand Jain, Prop. M/s. Mahaveer Trading Co., Tehsil Piploo, Distt. Tonk.	बनाम Vs.	The Income Tax Officer, Ward-Tonk, Tonk.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. ABHPJ 4466 F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Siddharth Ranka and
Shri M. Iqbal (Advocates)

राजस्व की ओर से / Revenue by : Shri J.C. Kulhari (JCIT)

सुनवाई की तारीख / Date of Hearing : 20.06.2018.
घोषणा की तारीख / Date of Pronouncement : 21/06/2018.

आदेश / ORDER

PER VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 28TH September, 2017 of Id. CIT (A)-3, Jaipur for the assessment year 2012-13. The assessee has raised the following grounds of appeal :-

- “ 1. That on the facts and in circumstances of the case, the Id. Lower authorities grossly erred in rejecting the books of accounts of the assessee appellant u/s 145(3) of the Income-tax Act, 1961.

2. That on the facts and in circumstances of the case, the Id. Lower authorities grossly erred in making a trading addition of Rs. 10,96,511/- by applying GP% of 10.21% as against 6.49% declared by the assessee appellant without any proper and cogent reasons.
3. The appellant craves leave to add, alter, modify or amend any ground on or before the date of hearing."

Ground No. 1 is regarding rejection of books of accounts under section 145(3) of the IT Act.

2. The assessee is a sole proprietor of M/s. Mahaveer Trading Company and engaged in the business of trading of commodities as well as iron sheets. During the assessment proceedings, the AO has noted that the gross profit declared by the assessee for the year under consideration is substantially low in comparison to the earlier years. The AO accordingly asked the assessee to prepare separate trading account of its trading activities in different commodities. The AO further noted that the assessee has recorded purchase of Mustard seeds in the month of March, 2012 from Vikray Parchi at a rate which is higher in comparison to the rate at which the corresponding sale has been made. The sales are done at an average rate of Rs. 3400/- per quintal whereas the closing stock was valued by the assessee at Rs. 3500/- per quintal. The AO found that the purchases which were made in cash from agriculturists are at enormously high rate of Rs. 4000/- per quintal. Accordingly, the AO questioned the correctness of the assessee's books of accounts and particularly the higher purchase price of Rs. 4000/- per quintal as against the corresponding sale at Rs. 3400/- per quintal. The AO noted that such a significant difference in the purchase price is not verifiable in the absence of complete address of the agriculturists and absence of any lab-receipts etc. Accordingly, the AO rejected the

book results by invoking the provisions of section 145(3) and adopted the average GP rate of last three years arrived at 10.21% for estimating the income of the assessee. The assessee challenged the action of the AO before the Id. CIT (A), however, could not succeed.

3. Before us, the Id. A/R of the assessee has submitted that the AO has not pointed out any defect in the books of accounts but only doubted the purchase price and sale price of Mustard seeds which is not in the control of the assessee but is gone by the market conditions. The assessee has produced the documentary evidence in support of the purchase price which is doubted by the AO and, therefore, merely there is variance in the purchase price which is higher than the sale price, the same cannot be a reason for rejection of books of accounts. The Id. A/R has further submitted that the assessee has produced the lab test reports regarding the quality of the commodity and due to the variance in the quality, the rates of purchase price as well as sale price vary from time to time. Thus the Id. A/R has submitted that the assessee produced all the supporting evidences to show the correctness of the purchase price, sale price and valuation of the closing stock. In support of his contention, he has relied upon a series of decisions and submitted that merely because the GP rate is declared low during the year under consideration, the same cannot be a reason for rejection of books of accounts. He has pointed out that the turnover of the assessee for the year under consideration has increased to more than two times from the immediately preceding year and more than three times for the assessment year 2010-11. Therefore, the decline in GP is a natural outcome when the assessee has substantially increased his turnover.

3.1. On the other hand, the Id. D/R has relied upon the orders of the authorities below and submitted that the assessee has not disputed the discrepancy in the purchase price which is shown Rs. 4,000/- per quintal as against the corresponding sale price of Rs. 3400/- per quintal. The closing stock was also valued at about Rs. 3,500/- per quintal which is also not matching either to the purchase price or to the sale price and even is not based on the accounting principles of cost or realization value whichever is less. Thus the Id. D/R has submitted that when the AO has specifically detected the significant variation in the purchase and sale prices as well as valuation of closing stock, then the books of accounts of the assessee were rightly rejected.

4. We have considered the rival submissions as well as the relevant material on record. During the course of assessment proceedings, the AO noted that the GP rate for the year under consideration has declined significantly in comparison to the earlier years. The comparative details of the GP rates and sales are given by the AO in para 3 as under :-

S.No.	A.Y.	Sales	Gross Profit	GP Rate
1.	2012-13	Rs. 2,94,55,164/-	Rs. 19,10,861/-	6.49%
2.	2011-12	Rs. 1,20,08,335/-	Rs. 12,37,076/-	10.30%
3.	2010-11	Rs. 80,35,378	Rs. 10,91,550/-	13.85%

Accordingly, the AO undertook the enquiry to find out the reasons for such decline in the GP rate for the year under consideration. The AO found that the assessee has shown the purchase in the month of March @ Rs. 4000/- per quintal of Mustard seeds and the corresponding sale has been shown by the assessee at Rs. 3400/- per quintal. Similarly, the assessee has valued the closing stock at approximately Rs. 3500/- per quintal. All the three rates for purchase, sale and closing stock are at

variance and there is a significant difference in the purchase price and sale price of the commodity being Mustard seeds in the month of March itself. It is pertinent to note that the agricultural commodity is purchased only during the procurement season in the months of March and April and therefore, the price of purchase is generally at lowest during the month of March. Thus we find that the AO has made out the case of significant variation in the purchase price and sale price of Mustard seeds in the month of March itself which is an unusual nature of transactions. Therefore, we find that this significant variation in the purchase price which is around Rs. 600/- per quintal higher than the selling price during the month of March is a sufficient reason for doubting the correctness of the books of accounts of the assessee and accordingly we upheld the rejection of books of accounts under section 145(3) of the Act.

Ground No. 2 is regarding trading addition made by the AO by adopting the GP rate at 10.21% as against the declared GP rate of 6.49%.

5. We have heard the Id. A/R as well as the Id. D/R and considered the relevant material on record. At the outset, we note that the average GP which is adopted by the AO for the assessment years 2010-11 to 2012-13 comes to 8.56% instead of 10.21% taken by the AO. Therefore, there is a mistake in computing the average GP for these three years. Further, we note that the AO has asked the assessee to prepare the separate trading account for each segment of trading commodity which was produced by the assessee and the AO found defect only in respect of the trading activity of Mustard seeds and no other defect or discrepancy was found by the AO regarding the trading activity of the assessee in other commodities. Thus in these peculiar facts and circumstances of the case, the GP rate declared by the

assessee in respect of the trading segment of Mustard seeds has to be taken into consideration and the average GP rate to be adopted for estimation of income is also to be considered only from the Mustard seeds trading segment of the assessee for the past assessment years as well as current assessment year. After computing the average GP rate for the three years as applied by the AO in respect of the trading in Mustard seeds segment, the income of the assessee has to be estimated by applying the said average GP on the turnover of the Mustard seeds trading. The remaining results of the assessee on other trading segments need not to be disturbed. Accordingly, we set aside this issue to the record of the AO to re-compute the income of the assessee on estimation basis by taking the average GP only in respect of Mustard seeds trading segment and applying the same on the turnover of the Mustard trading segment. The addition in the income of the assessee has to be computed only by taking the average GP of Mustard seeds trading segment.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 21/06/2018.

Sd/-

(भागचन्द)
(BHAGCHAND)

लेखा सदस्य / Accountant Member
जयपुर / Jaipur

दिनांक / Dated:- 21/06/2018.

das/

Sd/-

(विजय पाल राँव)
(VIJAY PAL RAO)

न्यायिक सदस्य / Judicial Member

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

1. अपीलार्थी / The Appellant- Shri Tara Chand Jain, Tonk.
2. प्रत्यर्थी / The Respondent- The ITO Ward Tonk, Tonk.
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. 889/JP/2017}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar