

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,
NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER, AND
SHRI N.K. BILLAIYA ACCOUNTANT MEMBER

ITA No. 1373/DEL/2017
[A.Y 2011-12]

M/s S.B. Industries
Near Casting
Rainbow Road
Muzaffarnagar

Vs.

The I.T.O
Ward 1 (2)
Muzaffarnagar

PAN : ABPFS 4829 M

[Appellant]

[Respondent]

Date of Hearing : 29.10.2018

Date of Pronouncement : 31.10.2018

Assessee by : Shri Ankit Gupta, Adv

Revenue by : Shri Sanjay Tripathi, Sr-DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the CIT(A), Muzaffarnagar dated 20.12.2016 pertaining to A.Y 2011-12.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in upholding the additions made by the Assessing Officer.

3. Facts on record show that the assessment was framed u/s 144 of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'] vide order dated 29.03.2014 by which the Assessing Officer estimated the net profit at 10% following the assessment for A.Y 2010-11.

4. We find that the dispute in A.Y 2010-11 travelled upto the Tribunal and the Tribunal vide order dated 16.09.2016 in ITA No. 1056/DEL/2015 has restored the issue to the file of the Assessing Officer by holding as under:

"After considering rival submissions and perusing relevant material on record, it is observed that there are certain contradictions in recording of the factual position by the AO and the assertions made on behalf of the assessee. Whereas the Assessing Officer has recorded that the assessee produced purchase bills only for Rs. 37.26 lakhs out of total of Rs. 1.42 crores, the Id. counsel for the assessee has placed on record copies of all the invoices and submitted that these were available before the Assessing Officer as well. Similarly, there are contradictions *qua* the support for expenses. It is also found that the A.O. has not given any basis for estimating sales at Rs. 1.80 crore and further the application of profit rate at 10%. As the assessee now claims to have the entire material available with it

enabling the A.O. to complete assessment on the basis of declared results, I consider it expedient to set aside the impugned order and remit the matter to the file of the AO for determining income as per law on the basis of evidence now available with the assessee. I order accordingly."

5. Respectfully following the findings of the coordinate bench and on finding that the assessment is based on A.Y 2010-11, we deem it fit to restore the issue to the file of the Assessing Officer with similar directions as given in A.Y 2010-11 [supra].

6. In the result, the appeal of the assessee in ITA No. 1373/DEL/2017 is allowed for statistical purposes.

The order is pronounced in the open court on 31.10.2018.

Sd/-

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

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 31st October, 2018

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

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Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
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Date on which the file goes to the Head Clerk	
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