

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ
IN THE INCOME TAX APPELLATE TRIBUNAL,
"SURAT" BENCH, SURAT
BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

अपील सं./ITA No.98/Ahd/2013
निर्धारण वर्ष/Asstt. Year:2008-2009

M/s. Jamadar Bricks Mfg. Co. Dandiya Bazar, B/H. Police Chowki, Bharuch-392001. PAN: AABFJ9425F	Vs.	Income Tax Officer, Ward-I, Bharuch.
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(Applicant)	(Responent)
Assessee by :	Shri B.T. Thakkar, C.A
Revenue by :	Smt. Smitha V. Nair, Sr. DR

सुनवाई की तारीख/Date of Hearing : 14/11/2018
घोषणा की तारीख /Date of Pronouncement: 16/11/2018

आदेश/O R D E R

PER AMARJIT SINGH, ACCOUNTANT MEMBER:

This assessee's appeal for A.Y. 2008-2009, arises from the order of the Learned Commissioner of Income Tax (Appeals)-IV, Baroda, dated 18/10/2012 in proceedings under section 143(3) of the Income Tax Act, 1961; in short "the Act".

2. The solitary ground of assessee is regarding addition of Rs.7,46,951/- made on account of low gross profit.

3. Briefly stated fact of the case is that return of income declaring income of Rs.4,93,883/- was filed on 17/09/2008. Subsequently, the case was selected for scrutiny by issuing notice u/s.143(2) of the Act, on 28/09/2009. During the

course of assessment proceedings the AO has noticed that assessee has shown total turnover at Rs.87,78,920/- with gross profit at Rs.14,47,779/- which works out to 16.49%. The A.O had directed the assessee to furnish the day to day quantity as maintained by it because the assessee was engaged in the manufacturing of bricks. The assessee has failed to furnish the quantitative register as required by the AO. Therefore, the AO has stated that for want of day to day stock register the actual quantity of raw material consumption and quantity of bricks produced cannot be verified. Thereafter, the AO has rejected the books of accounts of the assessee by invoking the provision of section 145(3) of the Act. Consequently, the AO has applied the G.P at the rate of 25% of total turnover and made addition of Rs.7,46,951/- to the total income of the assessee.

4. Aggrieved assessee has filed an appeal before the Id.CIT(A). The Id.CIT(A) has confirmed the G.P addition by holding that AO has correctly rejected the books of accounts and justified the estimation of gross profit on account of not maintaining of stock register.

5. During the course of appellate proceedings before us the Id.counsel has contented that the Id.CIT(A) has erred in sustaining the addition only because of not maintaining of day to day stock register without any basis. On the other hand Ld.DR supported the order of the Id.CIT(A).

6. We have heard both the side and perused the material available on record carefully. The AO in the absence of quantitative details has rejected the books of accounts of the assessee and estimated the gross profit at the rate of 25% of turnover as against the gross profit at the rate of 16.49% shown by the assessee in the Tax Audit Report. It is observed that AO has not taken into consideration any comparative cases engaged in the similar line of business for estimating the gross profit on account of non-maintenance of stock register by the assessee. It is also observed that AO has also not made any analysis of gross profit shown by the assessee in the other years before estimating the gross profit in the case of the assessee. The AO has simply estimated the gross profit at the

rate of 25% without demonstrating any basis of such working, therefore, we are of the view that it will be reasonable to estimate the gross profit in the case of the assessee at the rate of 20% for want of proper verification on account of non-furnishing of quantitative details. Accordingly, we restrict the disallowance on estimation of gross profit to 20% therefore, appeal of the assessee is partly allowed.

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

Order pronounced in the Court on 16/11/2018 at Surat.

**-Sd-
(RAJPAL YADAV)
JUDICIAL MEMBER**

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

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Surat; Dated 16/11/2018