

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'SMC' BENCH, KOLKATA**

**[Before Sri J. Sudhakar Reddy, Accountant Member]**

**I.T.A. No. 762/Kol/2018**  
Assessment Year: 2013-14

***Dinabandhu Som.....Appellant***  
***Kaligram***  
***Burdwan - 713 102***  
***[PAN : CQAPS 1625 K]***

***Income Tax Officer, Ward-2(3), Burdwan.....Respondent***

**Appearances by:**

*Shri Soumitra Choudhury, Advocate, appeared on behalf of the assessee.*  
*Shri Provas Roy, JCIT, appearing on behalf of the Revenue.*

Date of concluding the hearing : November 26<sup>th</sup>, 2018  
Date of pronouncing the order : December 5<sup>th</sup>, 2018

**O R D E R**

**Per J. Sudhakar Reddy :-**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)- Burdwan, (hereinafter the 'Id. CIT (A)'), passed u/s 250 of the Income Tax Act, 1961 (the 'Act'), dt. 04/09/2017, for the Assessment Year 2013-14.

2. The assessee is an individual and is in the business of trading in rice. The sole issue that arises for my adjudication is the rate of profit that has to be applied for the purpose of estimating the profit on undisclosed sale proceeds received by the assessee. the Assessing Officer as well as the Id. CIT(A) has applied the rate of 5% to the turnover. The assessee relies on the decision of the 'SMC' Bench of the Tribunal in the case of *Sk. Md. Mahasin vs. ITO, ITA No.300/Kol/2017 Assessment Year 2012-13, order dt. July 20<sup>th</sup>, 2018*, and argues that the Department itself has applied the GP Ratio of 1.46% under similar circumstances, where the assessee was a trader in rice.

2.1. The Id. D/R, points out that the assessee himself has offered GP Rate of 1.5% and hence the rate of estimation of GP made by the Assessing Officer and confirmed by the Id. CIT(A) has to be upheld.

3. In my view, interest of justice would be met if the profit from undisclosed turnover of rice is estimated at the rate of 1.5% of such turnover. The Revenue cannot adopt different yardsticks in case of different persons who are in the same trade.
4. In the result, appeal of the assessee is allowed.

***Kolkata, the 5<sup>th</sup> day of December, 2018.***

**Sd/-**  
**[J. Sudhakar Reddy]**  
Accountant Member

Dated : 05.12.2018  
{SC SPS}

*Copy of the order forwarded to:*

**1. Dinabandhu Som**  
**Kaligram**  
**Burdwan - 713 102**

**2. Income Tax Officer, Ward-2(3), Burdwan**

3. CIT(A)-  
4. CIT- ,  
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Assistant Registrar  
ITAT, Kolkata Benches