

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCHES (CAMP AT MEERUT))**

**BEFORE SHRI N.S. SAINI, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.3756/Del./2016
(ASSESSMENT YEAR : 2012-13)**

DCIT, Circle 1, vs. M/s. Arihant Publication (India) Ltd.,
Meerut. 26, Kalindi Colony, T.P. Nagar,
Meerut.

(PAN : AAECA7236R)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Deepak Kapoor, Advocate
Shri Ajay Kumar, AR

REVENUE BY : Shri Munshi Ram Bihagra, Senior DR

Date of Hearing : 11.01.2019

Date of Order : 04.02.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The appellant, DCIT, Circle 1, Meerut (hereinafter referred to as 'the Revenue') by filing the present appeal, sought to set aside the impugned order dated 28.03.2016 passed by Ld. CIT (Appeals), Meerut qua the Assessment Year 2012-13 on the grounds inter alia that :-

“1. Whether in the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) has erred in law and fact in directing the Assessing

Officer to apply Gross Profit rate of 23% in place of 25% as estimated by the AO ignoring the fact that no stock register was maintained by the assessee and when there was no quantitative tally of opening stock and purchases with sales and closing stock, the best course left with the Assessing Officer was to reject the books of accounts u/s 145(2) of the IT Act, 1961, and to estimate the Gross Profit on the basis of Gross Profit declared by other persons engaged in similar business and in the same market location.

2. Whether in the facts and circumstances of the case, the Order of the Ld. Commissioner of Income Tax Appeals) may be set aside and that of the A.O. be restored.”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : assessee is into printing and publication of books of competitive examination such as entrance examination, guide books, educational books, journals, magazines etc. and other books and has been maintaining regular books of accounts audited under section 44AB of the Income-tax Act, 1961 (for short ‘the Act’). Assessing Officer made addition of Rs.2,94,38,818/- by estimating the gross profit rate @ 25% on turnover of Rs.76,26,63,673/- as against the GDP rate of 21.14% shown by the assessee on the ground that the assessee has failed to produce the stock register.

3. Assessee carried the matter by way of an appeal before the ld. CIT (A) who has registered the gross profit to Rs.17,54,12,645/-

@ GP rate of 23% by partly allowing the appeal. Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. Undisputedly, audited books of account have not been disputed by the Assessing Officer who has proceeded to estimate the gross profit @ 25% on the sole ground that stock register has not been produced by the assessee. It is the case of the assessee that the fall in the GDP rate was due to increase in the turnover and competitive market. It is further case of the assessee that assessee does not maintain the stock records to show the quantitative details and the management carries out physical verification in a periodic intervals as well as at year end to work out the closing stock position.

6. Ld. CIT(A) after taking into account the fact that when assessee is admittedly in the business of publication and sale of books which are printed and sold in numbers and royalty is also paid to authors on a number of copies printed, it is not digestible that the assessee has not maintained stock records. In these

circumstances, Id. CIT (A), by relying upon the decisions rendered by the Hon'ble Delhi High Court, Hon'ble Punjab and Haryana High Court, Hon'ble Kerala High Court and Hon'ble jurisdictional Allahabad High Court, reached the conclusion to estimate the GP rate by making comparison with other publications at 23% as against GP rate of 21.14% shown by the assessee and 25% estimated by the AO. So, in these circumstances, finding no illegality or perversity in the impugned order, present appeal filed by the revenue is hereby dismissed.

Order pronounced in open court on this 4th day of February, 2019.

**Sd/-
(N.S. SAINI)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 4th day of February, 2019
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Meerut.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**