

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR  
श्री रमेश सी शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI RAMESH C SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 690/JP/2018  
निर्धारण वर्ष / Assessment Year :2013-14

|   |             |                                   |
|---|-------------|-----------------------------------|
| M/s Stone Age Pvt. Ltd.,<br>(Formerly known as M/s Stone<br>Age Ltd.),<br>Gram Siapura, Diggi Malpura<br>Road, Post- Shikarpura,<br>Sanganer, Jaipur. | बनाम<br>Vs. | D.C.I.T.,<br>Circle-2,<br>Jaipur. |
| स्थायी लेखा सं./जीआईआर सं./ PAN/GIR No.: AABCS 9876 L   |             |                                   |
| अपीलार्थी / Appellant   |             | प्रत्यर्थी / Respondent           |

निर्धारिती की ओर से / Assessee by : Shri Rajiv Sogani (CA)  
राजस्व की ओर से / Revenue by : Shri Ashok Khanna (JCIT)

सुनवाई की तारीख / Date of Hearing : 27/03/2019  
उदघोषणा की तारीख / Date of Pronouncement : 11/04/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-1, Jaipur dated 26/03/2018 for the A.Y. 2013-14 in the matter order passed U/s 143(3) of the Income Tax Act, 1961 (in short the Act).

2. In this appeal, the assessee is aggrieved for addition of Rs. 2,42,69,000/- being alleged excess value of stock calculated during the course of survey.

3. Rival contentions have been heard and record perused. Facts in brief are that the assessee company is engaged in manufacturing and export of cut and polished natural tiles, slabs etc.. During the year under consideration, there was a survey at assessee's business premises. On the date of survey, the stock as per books of account was found to be at Rs. 8,18,90,638/-, however, the survey party has valued the stock physically and arrived at a figure of Rs. 10,61,59,636/-. Accordingly, the difference of Rs. 2,42,69,000/- was proposed to be added in the income of the assessee. As per the A.O., statement of sales Director of company Shri Sanjeev Agarwal was recorded wherein he agreed to offer the difference as income of the assessee. During the course of survey following difference in inventory was alleged. As per the A.O., difference when confronted to Shri Sanjeev Agarwal Marketing Director of the assessee Company, while recording his statement he admitted the difference and offered the same for tax.

| Particulars                 | BOA         | Survey Team | Difference | Difference in % |
|-----------------------------|-------------|-------------|------------|-----------------|
| Quantity                    |             |             |            |                 |
| Material in Sq. Mtr.        | 1,13,058.54 | 1,09,055.60 | -4,002.94  | -3.54%          |
| Sand Stone (Cobble) in M.T. | 755.53      | 637.00      | -118.53    | -15.69%         |
| Sand Stone in CFT           | 1,341.86    | 1,491.00    | 149.14     | 11.11%          |
| Total                       | 1,15,155.93 | 1,11,183.60 |            |                 |
| Rate                        |             |             |            |                 |
| Material in                 | 700.00      | 951.00      | 251.00     | 26.39%          |

|                             |                |                 |                |         |
|-----------------------------|----------------|-----------------|----------------|---------|
| Sq. Mtr.                    |                |                 |                |         |
| Sand Stone (Cobble) in M.T. | 3,000.00       | 3,000.00        | -              | 0.00%   |
| Sand Stone in CFT           | 360.00         | 360.00          | -              | 0.00%   |
| Total                       | 4,060.00       | 4,311.00        |                |         |
| Value                       |                |                 |                |         |
| Material in Sq. Mtr.        | 7,91,40,978.00 | 10,37,11,875.60 | 2,45,70,897.60 | 23.69%  |
| Sand Stone (Cobble) in M.T. | 22,66,590.00   | 19,11,000.00    | -3,55,590.00   | -18.61% |
| Sand Stone in CFT           | 4,83,069.60    | 5,36,760.00     | 53,690.40      | 10.00%  |
| Total                       | 8,18,90,637.60 | 10,61,59,635.60 | 2,42,68,998.00 | 15.09%  |

From the table above, it is clear that there was practically no difference in the physical inventory taken by the survey team vis a vis inventory as per Books of Accounts. While replying to question no. 20 it was categorically stated by Sanjeev Agarwal that stock quantity is broadly tallied. Otherwise also the difference is of a very miniscule quantity. This much difference can be on account of error in taking inventory in a short period of time. Since addition was mainly on account of higher process cost as taken by the department, it was submitted during the course of survey itself, while replying to question no. 18, that company has following different processes:

| <i>S. No.</i> | <i>Process Name</i>        |
|---------------|----------------------------|
| 1             | <i>Machine Cutting</i>     |
| 2             | <i>Calibration Process</i> |
| 3             | <i>Tumbling Process</i>    |
| 4             | <i>Honing / Polishing</i>  |

|     |                             |
|-----|-----------------------------|
| 5   | <i>Sand Blasting</i>        |
| 6   | <i>Flaming</i>              |
| 7   | <i>Antiquing</i>            |
| 8   | <i>Brushing and Slacing</i> |
| 9   | <i>Profile Work</i>         |
| 10  | <i>Hand Crafting</i>        |
| 11. | <i>Hand cutting</i>         |

4. Even during the course of survey while the statement was recorded, replying the questions No. 12 and 16, it was submitted that the stock normally passes through maximum 2 to 3 processes only. Thus, it was clearly stated that all the 11 processes are not involved in the finished goods, however, as per requirement of the customer and specification of the order only particular process is being carried out. It was also submitted that the difference in valuation was mainly on account of arbitrary rate of Rs. 462 (being average of all the 11 processes) applied by the survey team on the entire inventory as on the survey date without making a note of which inventory had passed through which trail of processes.

5. During assessment proceeding complete details of quantity and valuation of inventory as on the survey date was submitted. The same has not been disputed nor any defect was pointed out by the AO, yet he has ignored the same. During the assessment proceedings, it was also submitted that the valuation done by survey team was based

solely on the rate provided by Shri Sanjeev Agarwal. No efforts were made by the survey team to verify the books and find out independently the process cost. The survey team relied on the unsubstantiated / unverified figure of processing charges as admitted by the directors of the assessee Company. Even initially, while replying to question no. 17 the process cost conveyed was Rs. 211 only. However, subsequently, under misconception and under normal pressure of such survey action the process cost was admitted at a higher figure of Rs. 462. The survey team in question no. 19 has taken the processing cost at Rs. 2,35,00,000 and has sought the reply in the background of processing cost. There is no basis available from where this figure was derived by the survey team. The director of the Company got misplaced and confused by this figure.

6. By the impugned order, the Id. CIT(A) confirmed the action of the A.O., against which the assessee is in further appeal before the ITAT.

7. We have considered the rival contentions and carefully gone through the orders of the authorities below. We had also deliberated on the judicial pronouncements referred by the lower authorities in their respective orders as well as cited by the Id. AR and Id. DR during the

course of hearing before us in the context of factual matrix of the case. From the record we found that the survey u/s 133A was carried out on 18.10.2012 at the business premises of the assessee Company. On the date of survey, the stock as per Books of Accounts was Rs. 8,18,90,638, as against this. the survey team valued the inventory at Rs. 10,61,59,636. During the course of survey proceedings statements of Shri Sanjeev Agarwal, Director of the assessee Company were recorded. Shri Sanjeev Agarwal in response to question no. 22 surrendered the difference of Rs. 2,42,69,000 (10,61,59,636-8,18,90,638) on account of alleged excess value of the stock found during survey. However, at the time of Audit of accounts of the appeal year, it was found that the valuation done by the survey team was erroneous and, therefore, while filing return of income the assessee Company did not offer the surrendered income of Rs. 2,42,69,000 to tax. Subsequent to filing return of income, Shri Sanjeev Agarwal vide letter dated 04.11.2013 before the AO retracted his statements of surrendering the income on account of excess stock. In the letter he appropriately explained the reason for retraction. During the course of survey, physical stock was taken. The valuation of the closing stock was done as per the process cost taken by the department at Rs. 462/- as on the date of survey whereas as per the books of account of the assessee

process cost worked out at Rs. 211 only. In the assessment order, the AO observed that, as on the date of survey, there was difference in the valuation of stock as there was difference in physical quantity as taken by survey team and as per the books of the assessee company as well as there was difference in treatments of inventory taken by the survey team and assessee company. The details of the same are as under:

| Particulars        | As per Assessee |                           |  | As per Survey |                       |                        |
|--------------------|-----------------|---------------------------|--|---------------|-----------------------|------------------------|
|                    | Qty<br>(Q 11)   | Rate<br>(Q 13)            | Amount                                     | Qty<br>(Q 21) | Rate<br>(Q 21)        | Amount                 |
| Material in MT     | 755.53          | 3,000                     | 22,66,590.00                               | 637.00        | 3,000                 | 19,11,000.00           |
| Material in CFT    | 1,341.86        | 360                       | 4,83,069.60                                | 1,491.00      | 360                   | 5,36,760.00            |
| Material in SqMtrs | 1,13,058.54     | 700<br>(refer note below) | 7,91,40,978.00                             | 1,09,055.60   | 951(refer note below) | 10,37,11,875.60        |
| <b>Total</b>       |                 |                           | <b>8,18,90,637.60</b><br><b>[PB 41-52]</b> |               |                       | <b>10,61,59,635.60</b> |
| <b>Difference</b>  |                 |                           | <b>2,42,69,000</b>                         |               |                       |                        |

### Note

| Particulars           | As per Assessee | As per Survey |
|-----------------------|-----------------|---------------|
| Material Rate         |                 |               |
| Average Purchase Cost | 350.00          | 350.00        |
| Freight               | 75.00           | 75.00         |
| Wastage               | 64.00           | 64.00         |
| Processing Cost       | 211.00          | 462.00        |
| <b>TOTAL</b>          | <b>700.00</b>   | <b>951.00</b> |

From perusal of table above it is evident that the difference in physical quantity was insignificant (difference of 3.67% in sq.mtr material and 1.44% in remaining material). The difference arose due to difference in processing cost taken by the department at Rs.462/- as compared to processing cost worked out at Rs. 211/- as per books of account, as on the date of survey. Even during the course of assessment proceedings, the assessee had furnished complete break up processing cost for the entire year under consideration and also for immediately preceding year, which was as under:

| <i>Particulars</i>                       | <i>Amount (In Rs.)</i> |                     |
|--|------------------------|---------------------|
|  | <i>F.Y. 2012-13</i>    | <i>F.Y. 2011-12</i> |
| <i>Stores, Consumable materials</i>      | <i>1,95,80,836</i>     | <i>1,96,77,101</i>  |
| <i>Electric, Power, Fuel &amp; Water</i> | <i>54,77,544</i>       | <i>52,46,588</i>    |
| <i>Labour Processing</i>                 | <i>32,02,336</i>       | <i>25,91,962</i>    |
| <i>Repairs to Building</i>               | <i>5,66,023</i>        | <i>3,15,018</i>     |
| <i>Repairs to Machinery</i>              | <i>12,50,266</i>       | <i>7,20,148</i>     |
| <i>Total</i>                             | <i>3,00,77,005</i>     | <i>2,8550,817</i>   |
| <i>Total Production</i>                  | <i>1,74,036.87</i>     | <i>2,64,362.40</i>  |
| <i>Average Processing Cost</i>           | <i>173</i>             | <i>108</i>          |

The AO has not pointed out any defect in the above working. The average cost of processing of Rs. 462 taken by the survey team, seen in above background was unjustified. During the course of assessment proceedings, the assessee had also placed on record export bills in respect of sale of finished goods valued by the department during survey and it was pointed out that exports were made at the rates which were

lower than the rate taken by the survey team. Details of such bills are as under:

| Date       | Invoice No. | Rate in Bill | Exchange Rate | Rate in INR | Rate taken by survey team | PB    |
|------------|-------------|--------------|---------------|-------------|---------------------------|-------|
| 24/10/2012 | 194         | 14.74        | 52.25         | 770.17      | 951                       | 84    |
| 31/10/2012 | 202         | 16.00        | 52.25         | 836.00      | 951                       | 85    |
| 31/10/2012 | 208         | 16.00        | 52.25         | 836.00      | 951                       | 86-87 |
| 16/11/2012 | 216         | 13.90        | 54.55         | 758.25      | 951                       | 88-89 |
| 22/12/2012 | 246         | 14.35        | 54.30         | 779.21      | 951                       | 90    |
| 29/12/2012 | 256         | 13.15        | 54.30         | 714.05      | 951                       | 91    |

In view of the above export sales it is clear that the higher processing cost so taken by the survey team was incorrect. It is pertinent to mention here that in the Audited Financial Statements the yearend inventory which is continuation of the book inventory as on the date of survey has also been accepted by the AO and assessment was completed accordingly. If the A.O. was to rely on the higher valuation of inventory done by the survey team, he should have substituted the stock accordingly which he has not done. It means stock as per books of account have been taken as correct by the A.O. while framing the assessment.

8. It was argued by the Id AR that under the provisions of section 133A statements cannot be recorded on oath: There is no evidentiary value of the statements recorded during survey proceedings. Reliance is placed on the decision of Hon'ble Madras High Court in the case of CIT

Vs. S. Khader Khan Son [2008] 300 1TR 157 (MAD.) in which it was held that:

*"...From the foregoing discussion, the following examples have been culled out:*

- (i) An admission is an extremely important piece of evidence but it cannot be said that it is conclusive and it is open to the person who made the admission to show that it is incorrect and the assessee should be given a proper opportunity to show that the books of account do not correctly disclose the correct state of facts, vide decision of the apex court in Pullangode Rubber Produce Co. Ltd. vs. State of Kerala & Another, 91-1TR-18:*
- (ii) In contradiction to the power under section 133A. section 132(4) of the Income Tax Act enables the authorized officer to examine a person on oath and any statement made by such person during such examination can also be used in evidence under the Income Tax Act. On the other hand, whatever statement is recorded under section 133A of the Income Tax Act is not given any evidentiary value obviously for the reason that the officer is not authorized to administer oath and to take any sworn statement which alone has evidentiary value as contemplated under law, vide Paul Mathews and Sons v. CIT [2003] 263 ITR 101 (Ker.);*
- (iii) The expression "such other materials or Information as are available with the Assessing Officer" contained in section 158BB of the Income Tax Act, 1961 would include the materials gathered during the survey operation under section 133A, vide CIT v. G. K. Senniappan [2006] 284 1TR 220 (Mad.);*
- (iv) The material or information found in the course of the survey proceedings could not be a basis for making any addition in the block assessment, vide decision of this court in T. C (A) No. 2620 of 2006 (between CIT v. S Ajit Kumar [2008] 300 ITR 152 (Mad);*
- (v) Finally, the word "may" used in section 133A(3)(iii) of the Act, viz., "record the statement of any person which may be useful for, or relevant to, any proceeding under this Act", as already extracted*

*above, makes it clear that the materials collected and the statement recorded during the survey under section 133A are not conclusive piece of evidence by itself.....*

The views of the Madras High Court have been affirmed by the Hon'ble Supreme Court by dismissing the appeal filed by the Department. [S. Khader Khan Son [2012] 25 [taxmann.com](http://taxmann.com) 413 (SC).

9. In view of the above settled legal proposition as per Id. AR additions made merely and solely on the basis of statements recorded with no corroborative material on record has no legal force as only oral statements are not conclusive evidence for making any addition. Reliance is placed on the decision of Hon'ble Rajasthan High Court in the case of CIT Vs A.L. Lalpuria Construction (P) Ltd.

10. The Id. AR of the assessee company, alternatively, submitted that the increase in value of closing stock becomes tax neutral if the assessee increases the closing stock for determining the opening stock of subsequent year. However, as in the instant case, if closing stock valuation is not increased by the assessee the addition becomes meaningless and, therefore, deserves to be deleted. It is submitted that similar issue can be before Hon'ble Co-ordinate Bench for consideration in the case of DCIT vs Manoj Kumar Joshi – ITA No 479/JP/2013 [CLC 111-124] wherein the ground of appeal was as under:

*“5. That on the facts and circumstances of the case the Ld. CIT(A) is wrong, unjust and has erred in law in holding that there was excess stock of Rs. 30,96,058/- as on the date of survey u/s 133A which is to be treated as unexplained investment of assessee u/s 69 of the Act and there by confirming addition of Rs. 30,96,050/- in income of assessee as against addition of Rs. 32,47,159/- made by A.O. as profit@ 17.20% on alleged shortage of stock of Rs. 1,88,78,833/-as on date of survey.” [CLC 113]*

Ld. Counsel of the assessee argued as under:

*“..Without prejudice to above, it is submitted that addition on account of excess stock for valuation difference is to be allowed to the assessee firm in next year as opening stock which will reduce profits of next year. The assessment of assessee for A.Y. 2010-11 has been completed u/s 143 (3) wherein opening stock was taken by assessee as that was shown by him as closing stock in this A.Y. 2009-10. Thus no benefit of enhancement of closing stock was claimed or allowed in A.Y. 2010-11. This exercise is essentially revenue neutral between two years and/or in subsequent years. The Hon’ble Supreme Court in the case of CIT Vs. Excel Industries Ltd.(2013) 358 ITR 295 has held that addition in such revenue neutral exercise should not be made by department. Thus on both the counts, there is no justification to make addition for difference valuation of stock and Ld. CIT (A) is wrong and has erred in law in confirming addition of Rs. 30,96,050/- in the hands of assessee as unexplained excess stock found in course of survey which deserves to be deleted...”[CLC 120-121]*

Hon’ble ITAT after considering the arguments held as under:

*“..13.1 Apropos Ground No. 5 of the assessee, we find merit in the arguments of the Id. counsel for the assessee that increase in valuation of the closing stock is to be allowed in next year as increase in opening stock in next year i.e. 2010-11. It has not been disputed that the assessee has not claimed any benefit by increase in valuation of stock in subsequent year. Hence, the addition becomes revenue neutral. Consequently, respectfully following the decision of Hon'ble Supreme Court in the case of CIT vs. Excel Industries Ltd. (2013) 358 ITR 295, the addition being tax neutral and the assessee having not derived any benefit, the addition is deleted...”[CLC 123]*

In view of above, rejection of books of account and addition of Rs.2,42,69,000 is devoid of merits and, therefore, relief may please be allowed by accepting the books results and, thereby, deleting the addition made by AO and confirmed by Id. CIT(A).

11. From the record we also found that during the course of assessment proceedings the AO did not accept the retraction by stating that retraction after lapse of more than a year is nothing but an afterthought to deny the tax liability. In this regard we observe that in the retraction itself the reason of retraction was duly submitted. It was during the course of Audit and finalization of Books of Accounts only that the error came to the notice of the assessee Company. Therefore, delay cannot be termed as afterthought. Reliance is placed on the decision of Hon'ble High Court of Jharkhand on the CIT vs. Ravindra Kumar Jain [2011] 12 [taxmann.com](http://taxmann.com) 257 (Jharkhand) wherein it was held as under:

*"..Learned counsel for the appellant vehemently submitted that the CIT(A) as well as the Tribunal committed serious error of law by ignoring the fact that the alleged retraction of the assesses was led in evidence during the course of the hearing before the Assessing Officer but since that was after delay of more than two years, therefore, such retraction statement has no value and should have been rejected.*

*.... it was the duty of the Assessing Officer to collect more evidence in support of the fact that there was undisclosed income of Rs. 7 lakhs in the hands of the assessee. These reasons had been considered by the CIT(A) as well as by the ITAT*

*and therefore, their findings about the taxable income of the assessee has been given in the facts of the case.*

*In view of the above reasons, we do not find any merit in this appeal, which is, accordingly, dismissed.*

12. It is clear from the order of the A.O. that the addition has been made on the basis of sole evidence in the form of statement recorded during the course of survey operation other than this statement, no corroborative material was brought on record by the department. It is pertinent to mention here that Shri Sanjeev Agarwal, whose statement was recorded was looking after marketing work of the assessee company, therefore, not aware of the costing aspect as well as valuation of the inventory. In contrast of this even during the course of assessment proceedings, complete details of quantity and valuation of the inventory as on the date of survey was submitted which has not been disputed by the A.O. nor any discrepancy was pointed therein. However, the A.O. has ignored the same.

13. The prevalence of forced confession has now been recognized by the Finance Minister himself during the course of his Budget Speech, 2003 followed up by a Board Circular No. 286/2/2003 IT (Inv.) dated 10.3.2003 requiring the Assessing Officers to avoid such compulsion. The Privy Council in Bhuboni Sahu Vs. The King [AIR 1949 PC 1257] had

pointed out to the tendency on the part of the officials to extort confession by intimidation and coercion and required independent corroboration of such confession, a view which has been endorsed by the Supreme Court in Kashindra Singh Vs. State of MP. AIR 1952 SC 159. It was held by the Hon'ble Apex Court in the case of Pulangode Rubber Produce Co. Ltd. vs. State of Kerala & Another, 91-ITR-18 SC that it is open to the assessee who made the admission to show that it was incorrect. Thus, under the provisions of section 133A statements cannot be recorded on oath: There is no evidentiary value of the statements recorded during survey proceedings unless corroborative evidence are brought on record. Reliance is placed on the decision of Hon'ble Madras in the case of CIT Vs. S. Khader Khan Son [2008] 300 ITR 157 (MAD.) The views of the Madras High Court have been affirmed by the Hon'ble Supreme Court by dismissing the appeal filed by the Department. [S. Khader Khan Son [2012] 25 taxmann.com 413 (SC). It is a settled legal proposition that additions made merely and solely on the basis of statements recorded with no corroborative material on record has no legal force as only oral statements are not conclusive evidence for making any addition.

14. Now we deal with the observation of the Id. CIT(A), the Ld. CIT(A) worked out the average processing cost of Rs. 104.41 from the details of

the inventory, as on the date of survey, as supplied by the assessee company (Page 22, Para viii). Ld. CIT(A) then compared the same with the yearly average of processing cost incurred during the entire year. Ld. CIT(A), thereafter, stated that the average processing cost taken for valuation of inventory as on the date of survey i.e. 104.41 is less than the yearly average of Rs. 173. In this regard we observe that Rs. 104.41 is actual processing cost of the inventory lying in the stock as on the date of survey and Rs. 173 is average of the actual processing cost incurred during the entire year. Therefore, the difference in actual and average cannot be eliminated and, thus, no adverse inference can be drawn, more so, when the average is in the favour of assessee company.

14.1 Ld. CIT(A), further, in Para viii at page 22, stated that marketing person cannot quote wrong figure of processing cost when he was selling the products of the assessee company. In this regard it is submitted that the cost of products in which assessee company is dealing is not static and it changes depending upon the order. A marketing person cannot know the nitty-gritties and intricacies of the costing model of any product. Further, we observe that the director whose statements were recorded initially stated the processing cost to be Rs.211 and, thereafter, under pressure he stated a higher processing cost to be Rs.462.

14.2 Ld. CIT(A) while going through the annual average of processing cost i.e., Rs.173, observed that the total quantity manufactured i.e., 1,74,036.87 was total of quantities in different units of measurement. We observe that admittedly the total was calculated taking into account quantity in square meter as well as in metric tonne. Since, the inventory in metric tonne was raw material on which no processing was done, the assessee company should have totaled only the inventory which was in square meters.

14.3 Further, ld. CIT(A) in Para (ix) Page 23 stated that while working out the average processing cost of Rs.173 the assessee company have not taken Yield Percentage into consideration. In this regard we observe that even if the average yearly processing cost is revised taking into consideration the observations as stated above, then also the average yearly processing cost will be Rs.208.29 which is very close to the average given by the assessee company i.e., 211. Details of correct revised average yearly processing cost are as under:

| <b>Particulars</b>                      | <b>Amount</b>  |
|---|----------------|
| Total manufacturing cost <b>[PB92]</b>  | 3,00,77,005.00 |
| Total quantity produced <b>[Note 1]</b> | 1,44,400.45    |
| <b>Average yearly processing cost</b>   | <b>208.29</b>  |

**Note – 1 [CIT(A) Page 23]**

| <b>Particulars</b>                          | <b>Units</b> | <b>Qtymfred.<br/>(after<br/>considering yield<br/>%)</b> | <b>Yield<br/>%</b> |
|---|--------------|--|--------------------|
| All type of building stones[ <b>PB 90</b> ] | Sq. Mtrs.    | 1,39,844.70  | 80.93              |
| All type of building stones[ <b>PB 90</b> ] | Sq. Mtrs.    | 4,555.75   | 100                |
| <b>TOTAL</b>                                |              | <b>1,44,400.45</b>                                       |                    |

The assessee company during the appellate proceedings produced few invoices on sample basis before Id. CIT(A), these invoices clearly depict that the products which were sold underwent various processes like hand cut, calibration, etc. Thus, the contention of Id. CIT(A) at Para (x) of Page 23 is devoid of merits.

14.4 Ld. CIT(A) at para (xi) on page 24 considered the fact that value of stock as stated by the assessee company, as on the date of survey, included an amount on account of processing of handicraft items. Ld. CIT(A) opined that such processes have high percentage of processing charges in comparison to other processes. Here we found that the average of 211 was computed after taking into account the designing process of handicraft items. Thus, higher average of 462 is baseless. In the instant case, the sole basis for rejection of Books of Account is the unsubstantiated allegation of excess stock as on the particular date of survey. No defect in the yearend inventory valuation has been pointed out by the AO.

15. From the record we found that addition was made on the basis of statement of Director. However, later on the director retracted his statements. The assessee company with the help of complete working established that the statements at the time of survey with regard to processing cost was wrong. However, A.O. could not point out any defect or discrepancy in factual working so submitted and which were duly supported by audited accounts. The A.O. solely relied only on the statements to make the additions and had no other evidence. Thus there is no merit for the addition made on account of processing rate difference in so far as all processes as envisaged by the department were not carried out on all the finished goods and only the process required by the customers were so carried out. Therefore, actual process cost as arrived in books of account is to be taken for valuation of stock.

16. Even if the said difference in the physical quantity so taken by the department is accepted the resultant valuation (as per the rates adopted by the assessee company) will be as under:

| Particulars                                | As per Survey |          |                       |
|--|---------------|----------|-----------------------|
|  | Qty (Q 21)    | Rate     | Amount                |
| Material in MT                             | 637.00        | 3,000.00 | 19,11,000.00          |
| Material in CFT                            | 1,491.00      | 360.00   | 5,36,760.00           |
| Material in SqMtrs                         | 1,09,055.60   | 700.00   | 7,63,38,920.00        |
| <b>Total of above</b>                      |               |          | <b>7,87,86,680.00</b> |
| <b>Total Stock as per assessee Company</b> |               |          | <b>8,18,90,637.60</b> |

17. It is clear from the above chart that even if the tentative quantity taken by the department with the rates as per books of account is taken total stock works out at Rs. 7,87,86,680/- as against the stock as per books of account at Rs. 8,18,90,637/-. Thus, there is shortage of stock as on the date of survey amounting to Rs. 31,03,957/- which can be considered as having been sold but not recorded in the books of account on the date of survey. At the most, the department can add GP earned on such shortage of stock, in so far as the A.O. has not doubted that all the purchases had been recorded in the books of account. Once the purchases is found to be accounted for, addition can be made with respect to G.P. earned on such shortage of stock. The G.P. during the year is 7.48%. Applying the same to the shortage of stock amounting to Rs. 31,03,957/- gives a profit of Rs. 2,32,175/-. Accordingly, we uphold the addition of Rs. 2,32,175/-. The A.O. is directed accordingly.

18. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on 11<sup>th</sup> April, 2019.

Sd/-  
(विजय पाल राव)  
(VIJAY PAL RAO)  
न्यायिक सदस्य / Judicial Member

Sd/-  
(रमेश सी शर्मा)  
(RAMESH C SHARMA)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur  
दिनांक / Dated:- 11<sup>th</sup> April, 2019

**\*Ranjan**

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

1. अपीलार्थी / The Appellant- M/s Stone Age Pvt. Ltd., Jaipur.
2. प्रत्यर्थी / The Respondent- The D.C.I.T., Circle-2, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 690/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar