

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR
श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 356/JP/2017
निर्धारण वर्ष / Assessment Year: 2012-13

Shri Mahesh Kumar Kumawat, Near NBC Road, Khatipura Road, Jaipur.	बनाम Vs.	I.T.O., Ward-3(1), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AJIPK 5792 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri S.K. Gogra (CA)
राजस्व की ओर से / Revenue by : Smt. Anuradha (JCIT)

सुनवाई की तारीख / Date of Hearing : 05/08/2019
उदघोषणा की तारीख / Date of Pronouncement : 07/08/2019

आदेश / ORDER

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

This is an appeal filed by the assessee against the order of Id.CIT(A)-I, Jaipur dated 17/02/2017 for the A.Y. 2012-13 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short, the Act).

2. Rival contentions have been heard and record perused. The facts in brief are that the assessee is engaged in the business of electric motors, submersible pumps etc.. During the course of scrutiny

assessment, the A.O. rejected book results and made trading addition by applying G.P. rate of 11% as against the G.P. of 10.56% shown by the assessee after alleging that the assessee failed to file details of opening and closing stocks with documentary evidence and quantitative details and the same were not furnished. 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.

3. It was argued by the Id AR of the assessee that during the year under consideration, the sales of the assessee has increased from Rs. 4.13 crores to Rs. 4.65 crores which resulted into marginal decrease in the G.P. from 10.60% to 10.56%, this is only because of marginal decrease in the G.P., the A.O. should not have rejected the book result and made the trading addition.

4. On the other hand, the Id DR has contended that the assessee did not maintain quantitative and qualitative details of this year as well as earlier year, therefore, the A.O. did not consider the trading results of earlier year for estimating the G.P. of the assessee.

5. I have considered the rival contentions and carefully gone through the orders of the authorities below and found that the assessee has not

filed quantitative and qualitative details of opening and closing stock and sales before the A.O., therefore, trading results of the assessee were not open to verification. Under these facts and circumstances, the A.O. rejected the book results of the assessee and estimated G.P. rate of 11% in place of G.P. of 10.56% shown by the assessee, accordingly, I do not find any infirmity in the order of the lower authorities for rejecting the book results and taking very marginal increase in the G.P. declared by the assessee in view of the findings given by the lower authorities.

6. The assessee is also aggrieved for computing higher long-term gain based on the DLC rate of individual plots instead of DLC rate of agricultural land and also for not giving benefit of cost of improvement of Rs. 7,41,893/-.

7. The AR of the assessee has submitted that during the year, the assessee had sold agricultural land in piecemeal through various 29 sales deeds. The A.O. has adopted DLC of the individual plots while computing capital gains. It was contention of the Id AR that the objection was raised for substituting the DLC value in place of actual sale consideration received by the assessee. It was also submitted that

even though before the A.O. the assessee could not file details of improvement cost incurred amounting to Rs. 7,41,893/- for getting construction of small boundary wall so as to demark the land in piecemeal and for which invoices were also submitted before the Id. CIT(A).

8. On other hand, the Id DR has relied on the orders of the authorities below.

9. I have considered the rival contentions and carefully gone through the orders of the authorities below and found that before substituting the actual sale consideration, the A.O. has not referred the matter to the DVO in spite of assessee's request. In terms of provisions of Section 50C(2) of the Act, the A.O. should have referred the matter to the DVO, therefore, in all fairness, I restore this issue back to the file of the A.O. for making a reference to the DVO and thereafter determining the capital gains so earned by the assessee. I also direct the A.O. to reconsider the improvement cost incurred by the assessee, the details of which was filed before the Id. CIT(A). I also observe that the agricultural land was sold with measurement and dividing the same in plots for which boundary wall was required to be constructed. Without putting

the demarcation in the land, it is not possible to handover the physical possession of the land. In all fairness, the A.O. is directed to examine the issue of improvement cost having been incurred by the assessee after giving due opportunity to the assessee.

10. In the result, appeal of the assessee is allowed in part for statistical purposes.

Order pronounced in the open court on 07th August, 2019

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

जयपुर / Jaipur

दिनांक / Dated:- 07th August, 2019

*Ranjan

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

1. अपीलार्थी / The Appellant- Shri Mahesh Kumar Kumawat, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward-3(1), 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. 356/JP/2017)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar