

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'SMC' NEW DELHI**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER**

**ITA Nos. 8262 & 8263/Del/2018  
Assessment Years: 2013-14 & 2014-15**

Phool Chand Brij Mohan C-35/4, 1 <sup>st</sup> Floor, Industrial Area, Lawrence Road, New Delhi.  <b>PAN No. AAHFP0097P</b>	vs	ITO, Ward 41(4) New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee by</b>	<b>Shri R.S. Singhvi, CA Shri Satyajeet Goel, CA</b>
<b>Revenue by</b>	<b>Ms. Ekta Vishnoi, Sr. DR</b>

**ORDER**

The assessee has filed the present appeals against the impugned orders dated 28.03.2016 and 16.12.2016 passed by the Ld. CIT(Appeals)-14, New Delhi in relation to assessment years 2013-14 and 2014-15 respectively.

Grounds of ITA No. 8262/Del/2018 (AY 2013-14) read as under:

1. *That CIT(A) was not justified in confirming order of Assessing Officer without proper finding and adjudication regarding rejection of books of accounts u/s 145 and trading addition of Rs. 22,45,700/- based on estimation of GP rate @1.28% as against declared GP rate of 0.88%.*
- 2 (i) *That on the facts and circumstances of the*

*case, there is no ground or basis for rejection of books of accounts and estimation of profit.*

*(ii) That estimation of GP rate @ 1.28% is highly arbitrary and unjustified and merely based on presumption and surmises particularly when books of accounts were subjected to audit and duly supported by bills and vouchers and as such there is no justification for any adverse inference merely on the ground that confirmation was not filed from suppliers.*

*(iii) That having accepted sales, there is no justification for disputing purchases and accordingly there is no case for any addition on account of GP rate.*

*3. That orders of lower authorities are not justified on facts and same are bad in law.*

2. Facts narrated by the Revenue Authorities are not disputed by the both parties, therefore, no need to repeat the same for the sake of convenience.

3. Assessee has raised three grounds of appeal. But at the time of hearing, he only argued ground no. 1 and requested that estimation of GP rate @ 1.28% against declared by the assessee at 0.88% is on higher side. He requested that keeping in view of the previous and subsequent GP rate estimated by the Revenue Authority, for this year also reasonable GP rate may be estimated on asking of the Bench that what should be the reasonable GP rate for the assessment year in dispute. The Ld. Counsel for the assessee as well as

the Ld. DR stated that reasonable estimation of GP rate may be estimated as Bench deemed fit.

4. After hearing the both parties and perused the relevant record available with me especially the order passed by the Revenue Authority. I am of the view that the Ld. Counsel for the assessee has filed the paper book dated 23.05.2019 in which he has attached various types of documentary evidences for establishing the GP rate determined for the year under consideration is on higher side and requested for reducing the same reasonably. I have perused the paper book filed by the assessee especially page no. 92 in which the assessee has shown GP rate from AY 2009-10 to AY 2014-15 for the sake of convenience the chart showing gross profit earned by the appellant in the earlier years which is at page no. 92 of the paper book filed by the assessee is as under:

AY	Turnover (A)	Gross Profit (B)	Percentage Gross Profit (B/A * 100)	Scrutiny Assessment
2009-10	3,096.30	20.65	0.67%	Yes, No addition on account of GP Ratio
2010-11	2,818.76	22.22	0.79%	No, Scrutiny Assessment
2011-12	2,841.20	33.99	1.20%	Yes, No addition on account of G.P. Ratio
2012-13	4,226.91	58.32	1.38%	Yes, No addition on account of GP Ratio
2013-14	5,628.15	49.58	0.88%	Yes, Addition made on GP Ratio by applying GP Rate of 1.28% resulting in an addition of Rs. 22,45,775/-

				(Case pending for adjudication)
2014-15	6,628.50	80.12	1.21%	Yes, Addition made on GP Ratio by applying GP Rate of 1.31% resulting in an addition of Rs. 8,48,589/- (Case pending for adjudication)

5. Keeping in view the facts and circumstances of the present case and the GP rate determined by the Revenue Authority for the previous year. I am of the considered view that under the facts and circumstances of the present case it would be in the interest of justice, if the GP rate is estimated at 1.01% AO is directed to compute the estimation of GP rate @ 1.01% at total sale turnover for the year under consideration i.e. Rs. 56,28,15,562/- and assess the income of the assessee accordingly.

6. In the result, the appeal filed by the assessee is partly allowed.

ITA No. 8263/Del/2018 (AY 2014-15):

7. The facts of this case are almost identical to the facts of aforesaid case i.e. ITA No. 8262/Del/2018 for AY 2013-14. But at the time of hearing Ld. DR stated that in this case the assessee has declared GP rate @ 1.21% and the Revenue has estimated GP rate @ 1.31% on the gross profit on total sales for the assessment year in dispute i.e. amounting to Rs. 67,64,06,759/-. Ld. DR stated that this reasonable estimation of GP and the same may be upheld. Ld. Counsel for the assessee has not raised any serious

objection on the argument of Ld. Counsel for the assessee for AY 2014-15.

8. Keeping in view the facts and circumstances of the present case and the GP rate estimated by the Revenue Authorities @ 1.31% as against declared by the assessee @ 1.21%. In the interest of justice and as agreed by the both parties, I uphold the estimation of GP rate @ 1.31% on the gross profit on total sales for the assessment year in dispute i.e. Rs. 67,64,06,759/- and direct the AO to assess the income of the assessee accordingly.

9. In the result, the appeal filed by the assessee for the AY 2014-15 is dismissed.

10. In the result, ITA No. 8262/Del/2018 for AY 2013-14 is partly allowed and ITA No. 8263/Del/2018 for AY 2014-15 is dismissed.

Order pronounced in the open Court.

Sd/-  
**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

Dated: 30/10/2019

\*Kavita Arora

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

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ASSISTANT REGISTRAR  
ITAT NEW DELHI