

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ "सी", नई दिल्ली में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C', NEW DELHI**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री एन.काबिल्लैया, लष्ठा सदस्य का समक्ष  
**BEFORE MS. SUSHMA CHOWLA, JM & SH. N.K.BILLAIYA, AM**

आयकर अपील सं. / ITA Nos.1238 & 1239/Del/2017  
निर्धारण वर्ष / Assessment Years- 2012-13 & 2013-14

Galgotia Publication (P.) Ltd.,  
4405/6, Prakash Apartments-II,  
5, Ansari Road, Daryaganj,  
New Delhi-110002.

PAN-AAACG1557F

.....अपीलार्थी / Appellant

vs

The DCIT,  
Central Circle, Noida.

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर स□/ Appellant by : Sh. P.K.Misra, CA

प्रत्यर्थी की ओर स□/ Respondent by : Sh. S.N.Meena, Sr.DR

सुनवाई की तारीख / Date of Hearing : 17.12.2019	घोषणा की तारीख / Date of Pronouncement: 23.12.2019
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**आदेश / ORDER**

**PER SUSHMA CHOWLA, JM:**

The present appeals filed by assessee are against the order of CIT(A)-IV, Kanpur, dated 28.12.2016 relating to assessment years 2012-13 & 2013-14 against order passed under section 143(3) of the Income-tax Act, 1961 (in short 'the Act').

2. Both appeals filed by the assessee were heard together and are being disposed off by this consolidated order for the sake of convenience.

**ITA No.1238/Del/2017 [Assessment Year- 2012-13]**

3. The assessee in this appeal relating to Assessment Year 2012-13 has raised solitary issue against the disallowance made u/s 14A r.w. Rule 8D of Income Tax Rules, 1962 (in short "Rules") at Rs.44,21,688/-.

4. The Ld.AR for the assessee at the outset pointed out that the assessee has only earned dividend income of Rs.830/- and hence, there is no merit in the aforesaid disallowance made against the assessee.

5. We have heard the rival contentions and perused the record. The limited issue which is raised is against the disallowance made u/s 14A r.w. Rule 8D of Rules. The assessee had earned dividend income of Rs.830/- and the issue which has been urged before us is the disallowance to be restricted to the amount of dividend income earned. We find that the said issue has been decided by the Hon'ble Delhi High Court in Joint Investment Pvt.Ltd. vs CIT 372 ITR 694 (Del.) and CIT vs Holcim (India) Pvt.Ltd. 272 CTR 282 (Del.). Following the same parity of reasoning, we hold that the disallowance u/s 14A r.w. Rule 8D of Rules is restricted to Rs.830/-. Hence, grounds raised by the assessee in this appeal are allowed.

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

**ITA No.1239/Del/2017 [Assessment Year- 2013-14]**

7. Further, the assessee in this appeal relating to Assessment Year 2013-14 has raised the issue against the estimated addition made in the hands of the assessee on account of decline in gross profit rate.

8. Briefly in the facts of the case relating to the issue the assessee was engaged in the business of books publication. For the year under consideration, the assessee declared gross profit of Rs.371.43 lacs against sale of Rs.1350.86 lacs for the year which gave gross profit rate of 27.51% as against gross profit rate of 34.49% for immediately preceding year. The assessee before the Assessing Officer submitted that decline in gross profit rate could be attributed to sale of old books which had lost their marketability due to fresh editions coming in the market. The assessee also submitted that decline was on account of fact that fake editions of their best sellers came in the market and to recapture their lost market they had to resort to selling books at heavy discount. The Assessing Officer however, did not accept the gross profit rate declared by the assessee and made an addition @ 2% of gross sales on account of decline in gross profit rate resulting in addition of Rs.27,01,424/-. The CIT(A) upheld the order of the Assessing Officer against which the assessee is in appeal before us.

9. The Ld.AR for the assessee pointed out that the explanation filed by the assessee before the authorities below has been rejected in mechanical manner. It was further stated that decline in gross profit rate

were in line in the trade carried on by the assessee as there was stiff competition in the market and the assessee had to offer discounts; hence the gross profit rate declared by the assessee could not be disturbed.

10. The Ld. DR however, placed reliance on the orders of the authorities below.

11. We have heard the rival contentions and perused the record. The assessee was engaged in publication of books. During the year under consideration, the assessee had declared gross profit rate of 27.51% on total sales of Rs.1350.86 lacs as against gross profit rate of 34.49% on sales of 1080.03 lacs in the preceding year. The assessee had filed the reasons for decline in gross profit rate before the authorities below and pointed out that the same was attributable to sale of old books, because of fresh editions coming in the market and also on account of discounts being offered in order to be competitive in the market. The turnover of the assessee had also increased when compared to the turnover of preceding year. There is no merit in the orders of the authorities below in holding that the estimated addition has to be made on account of fall in gross profit rate. The books of accounts maintained by the assessee had not been rejected by the Assessing Officer and only the gross profit rate has been estimated @ 2% over and above, the gross profit rate declared by the assessee. We find no merit in the orders of the authorities below in the given set of facts of the case and accordingly, we delete the aforesaid

additions made in the hands of the assessee. The grounds of appeal raised by the assessee are thus allowed.

12. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 23<sup>rd</sup> day of December, 2019.

**Sd/-**

**Sd/-**

**(N.K.BILLAIYA)**

**लक्षा सदस्य/ACCOUNTANT MEMBER**

दिल्ली / दिनांक Dated : 23<sup>rd</sup> December, 2019.

\* *Amit Kumar* \*

**(SUSHMA CHOWLA)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

आदशा की प्रतिलिपि अग्रहित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. मुख्य आयकर आयुक्त / The Pr. CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, दिल्ली / DR, ITAT, Delhi
6. गार्ड फाईल / Guard file.

**आदशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

सहायक रजिस्ट्रार, आयकर अपीलीय अधिकरण ,दिल्ली  
Assistant Registrar, ITAT, Delhi