

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE – VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.1132/PUN/2019

निर्धारण वर्ष / Assessment Year : 2013-14

Raja Jaspalsingh Bagga,
Prop. of R.K. Logistics,
B-13, Transport Nagar,
NH-6, Dist. Jalgaon – 425001
PAN : AMUPB8971B

Vs. ITO, Ward-1(3),
Jalgaon

(Appellant)

(Respondent)

Appellant by

None

Respondent by

Ms. Nishtha Tiwari &
Shri Prathamesh J.Lawand

Date of hearing

10-06-2020

Date of pronouncement

10-06-2020

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-2, Nashik on 20-05-2019 in relation to the assessment year 2013-14.

2. Briefly stated, the facts of the case are that the assessee is a Transport contractor, who filed his return declaring total income at Rs. 2,64,280/-. The assessee's accounts were audited recording transportation receipts at Rs.1.81crore and transportation payments at Rs.1.77 crore with net profit of

Rs.1,54,798/-, which came to be 0.85%. The Assessing Officer (AO) observed that the freight payments were about 98% of transportation receipts. On being called upon to substantiate the receipts of freight, the assessee furnished part details, with which the AO was not satisfied. Apart from that, the AO also found that certain expenses claimed by the assessee were not properly backed by necessary evidence. He rejected the books of accounts u/s. 145 of the Act and applied net profit rate at 10%, which led to estimation of business income at Rs.18,16,578/-. The ld. CIT(A) got partly convinced with the assessee and reduced the net profit rate to 5%. Aggrieved thereby, the assessee is in appeal before the Tribunal.

3. I have heard the ld. DR through virtual hearing and gone through the relevant material on record. There is no appearance from the side of the assessee. When the case was earlier fixed for hearing on 15-01-2020, namely, the period prior to lockdown, the assessee at that time also remained unrepresented and also did not appear in person. On still earlier occasions also, namely, 26-09-2019 and 11-11-2019,

the assessee chose not to be present before the Tribunal. Under such circumstances, I am proceeding to dispose of the appeal *ex parte qua* the assessee.

4. It is observed that the assessee is a transport contractor. There is no dispute on the amount of freight charges received by the assessee. In the prevailing circumstances as recorded above and as noted in detail in the assessment order, it is held that the AO was justified in rejecting the books of account as the assessee failed to substantiate various expenses and also could not point out all the details to whom freight receipts were paid/received. Having rejected the books of accounts, it becomes obligatory on the part of the AO to compute fair income of the assessee. In the given circumstances, the only dispute is applying the appropriate net profit rate. The assessee, being, a Transport contractor has been saddled with the net profit rate of 10%, which is obviously on a much higher side in this line of business. The assessee relied before the Id. CIT(A) on a Jaipur Tribunal order dated 05-06-2015 in *Shri Om Prakash Bansal Cuke Vs. ITO* (ITA No.734/JP/2012), wherein the Tribunal restricted the

estimation of income under such circumstances at 2.5%.
Considering the entirety of the facts and circumstances prevailing in the instant case, I am of the considered opinion that it would be just and fair if the assessee's net profit is also restricted to 2.5% as against 10% applied by the AO and restricted to 5% by the Id. CIT(A). I order accordingly.

5. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 10th June, 2020.

Sd/-

(R.S.SYAL)

उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 10th June, 2020
सतीश

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) /
The CIT (Appeals)-2, Nashik
4. The Pr.CIT-2, Nashik
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC" /
DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	10-06-2020	Sr.PS
2.	Draft placed before author	10-06-2020	Sr.PS
3.	Draft proposed & placed before the second member	--	JM
4.	Draft discussed/approved by Second Member.	--	JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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