

आयकर अपीलिय अधीकरण, न्यायपीठ – “C” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA**  
 (समक्ष) Before श्री जे. सुधाकर रेड्डी, लेखा सदस्य एवं/and श्री ऐ. टी. वर्की, न्यायीक सदस्य)  
 [Before Shri J. Sudhakar Reddy, AM & Shri A. T. Varkey, JM]

**I.T.A. No. 604/Kol/2019**  
**Assessment Year: 2014-15**

Radha Damodar Rice Mill (PAN: AAJFR7904F)	Vs.	Income-tax Officer, Wd-2(4), Burdwan
Appellant		Respondent

&

**I.T.A. No. 631/Kol/2019**  
**Assessment Year: 2014-15**

New Jagat Gouri Rice Mill (P) Ltd. (PAN: AAECN2691P)	Vs.	Asstt. Commissioner of Income-tax, Circle-2, Burdwan
Appellant		Respondent

Date of Hearing (Virtual)	13.10.2020
Date of Pronouncement	21.10.2020
For the Appellant	Shri Soumitra Choudhury, Advocate
For the Respondent	Shri Jayanta Khanra, JCIT

## **ORDER**

**Per Shri A.T.Varkey, JM**

Both these appeals preferred by the different assessee's (Rice Mill's) against the separate orders of Ld. CIT(A), Burdwan dated 11.01.2019 and 01.02.2019 for AYs 2014-15 respectively.

2. The sole issue in both these appeals which are filed by the assessee firm and company respectively are against the action of Ld. CIT(A) to disregard their disclosed GP rate of 2.31% and GP rate of 1.80% respectively on their respective turnover and confirm GP of 3% on both their respective turnovers.

3. Brief facts of the case of ITA No. 631/Kol/2019 are that the AO noted that the assessee failed to give details of purchases of paddy for cash, so having rejected the books of account of the assessee, the AO observed that the GP of 2.31% shown by assessee is too low and thereafter compared the GP results given by NABARD and other Institutions wherein the average GP comes from the business of rice mills at 6.2% on the turnover of rice & bran production from paddy and, therefore, the AO made an addition of GP at 6.21% of turnover of this assessee and made an addition of Rs.2,43,61,260/-.

4. In the case of ITA No. 604/Kol/2019 brief facts are that the AO noted that the assessee failed to give details of purchases of paddy for cash, so having rejected the books of account of the assessee, the AO observed that the GP of 1.8% shown by assessee is too low and thereafter compared the GP results given by NABARD and other Institutions wherein the average GP comes from the business of rice mills at 6.2% on the turnover of rice & bran production from paddy. However, in this case, the AO made an addition of GP at 7% of turnover of assessee and thus made an addition of Rs.1,08,86,650/-. Aggrieved, both the assessee's preferred separate appeals before the Ld. CIT(A), who was pleased to confirm GP @3% of their respective turnover after taking note of fifteen comparable cases and thus gave partial relief to both the assessee's. Against the impugned order of Ld. CIT(A) both the assessee's are in appeals before us.

5. We have heard rival submissions and gone through the facts and circumstances of the case. We note that both these rice mills are from Burdwan District. In both the cases the revenue/AO has not disputed about the quantity of the goods sold and purchased during the year. It is only in respect of the amount paid by assessee towards purchase of paddy in cash is suspect. According to the AO, due to the assessee's failure to give specific details of the farmers from whom the assessee's have purchased the paddy, the amount paid to them are unverifiable. According to us, when the quantity of the paddy purchased and sold has not been disputed the AO could not have rejected the books of account only on the basis of surmises. We note that the assessee's accounts are audited and no discrepancies could be pointed out by the AO in both the cases. However, the assessee has not preferred any grounds of appeal against the decision of the authorities below rejecting the books of account. Therefore, we refrain from observing any further on it. Coming to the estimation,

we note that in the first case, we have discussed (supra), that the rice mill has shown to have GP of 2.31% on its turnover and in the second case, the rice mill has shown GP of 1.8% of its turnover. However, the AO on the basis of some studies conducted by NABARD and other Institutions have estimated by adopting GP @ 6.2% and 7% respectively. However, the Ld. CIT(A) in both the cases have adopted GP @ 3%. Before us, the Ld. AR Shri Soumitra Chowdhury, Advocate contended that certain comparable rice mills of the nearby locality as that of both the assessee's has not been considered and if it was considered by the Ld. CIT(A) then the GP would have come down. Be that as it may be, we note that in the first case the assessee has shown GP of 2.31% and in the second case the assessee has shown the GP of 1.8% in their respective accounts which are audited. Taking into consideration the contention of both the parties and since the revenue is not in appeal against the action of Ld. CIT(A), for the ends of justice, we direct the AO to compute the GP of both the assessee's at 2.5% of their respective turnovers. Thus, both the assessee's get partial relief.

6. In the result, both the appeals of assessee's are partly allowed.

Order is pronounced in the open court on 21st October, 2020.

Sd/- (J. Sudhakar Reddy)  
 Accountant Member

Sd/-(A. T. Varkey)  
 Judicial Member

Dated: 21st October, 2020

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – i) Radha Damodar Rice Mill, Alamganj, P.O. Nutanganj, Burdwan-713102.  
 ii) New Jagat Gouri Rice Mill Pvt. Ltd., Mondalgram Paschim, Mondal Gram, Burdwan-713426.
2. Respondent – ITO, Wd-2(4), Burdwan & ACIT, Circle-2, Burdwan
3. The CIT(A), Burdwan (sent through e-mail)
4. CIT , Burdwan
5. DR, Kolkata Benches, Kolkata (sent through e-mail)  
 /True Copy,

By order,

Assistant Registrar