

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR “SMC” BENCH, JABALPUR  
[Through Virtual Hearing]**

BEFORE SHRI NRS GANESAN, JUDICIAL MEMBER

ITA No.121/JAB/2014  
Assessment year: 2008-09

M/s. Kalptaru Agencies, 903,MH House, Gole Bazar, Jabalpur (M.P.)  (PAN –AAFFK5333B)  (Appellant )	vs.	Addl. Commissioner of Income Tax, Range-1,AyakarBhawan, Annexe Building, Mission Chowk, Napier Town, Jabalpur (M.P.)  (Respondent)
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Appellant by	Shri Dhiraj Ghai, CA
Respondent by	Shri I B Khandel, DR
Date of hearing	13/11/2020
Date of pronouncement	13/11/2020

**ORDER**

Per NRS Ganesan, JM:

1. This appeal of the assessee is directed against the order of CIT(A)-1, Jabalpur dated 10.3.2014 and pertains to AY 2008-09.
2. Shri Dheeraj Ghai, Id. Representative for the assessee submitted that the only issue that arises for consideration is estimation of gross profit. According to Id. Representative for the assessee, the assessee has declared profit as per the books of account maintained in the regular course of business. However, the AO, without rejecting the books of account, estimated the profit at 0.5%. On appeal by the assessee, the CIT(A) found that the reason for rejecting the book result by the AO is technically not sound. However, he observed that in view of the increase in purchase price, the assessee should have declared high profit by increasing the sale price. Accordingly, the CIT(A) rejected the book result and increased the gross profit by 0.1% instead of 0.5%. The main

contention of the Id. representative for the assessee is that unless the books of account were rejected there cannot be any estimation of profit.

3. On the contrary, Id. DR submitted that the price of the Tendu leave was increased from 6.35% in the A.Y. 2007-08 to 16.4% in the A.Y. 2008-09. The assessee explained before the AO that the main reason for low profit is increase of purchase price of Tendu leave. When the sale and purchase price of Tendu leave was increased according to Id. DR there cannot be any decrease in gross profit ratio.

3. I have heard the rival submissions on either side and also perused the material available on record. It is not in dispute that the assessee is maintaining regular books of account in the regular course of business. From the assessment order it appears, assessee has filed an audit report in Form 3 CD. After referring the books of account the AO has observed as follows:

- "1) Purchase and sales bills were called off and were checked on test basis and found agreeing with books of accounts.*
- 2) Sundry creditors balances were checked along with respective bills and books of accounts were found ok.*
- 3) Fresh unsecured loan as taken by firm during year was examined and continuation thereof were called off and were placed on records. Secured loan were confirmed from Sank Statements and interest paid thereupon were found to be in conformity with section 36(1) (iii) and no addition thereupon is proposed*
- 4) Details of all loans and advances as appearing in Audited statements were called off and were examined along with books of accounts and were found to be in order.*
- 5) Rent paid by assessee was examined with vouchers and confirmation thereupon was called and was placed on records. Same was found to be in conformity with records and according to need of business.*

4. From the above, it appears that the AO could not find any defect in the books of account. In fact the AO accepted the books of account maintained in the regular course of business. The question arises for consideration is whether the AO can estimate the gross profit when the books of account were accepted and not rejected. It is well settled principles of law that there cannot be any estimation of profit when books were not rejected. In this case, the CIT(A) only rejected the book results and not the books of account. When the books of

account were not rejected and no defect was found in the entries made therein, the CIT(A) is not justified in rejecting the book result. The law does not demand or expect the assessee to make a particular percentage of profit. There may be various reasons including the market condition for increase in the purchase price and the sale price. When the assessee maintained the books of account properly and it was accepted by the AO, this Tribunal is of the considered opinion that there cannot be any addition by making estimation of gross profit. Therefore this Tribunal is unable to uphold the orders of both the authorities below. Accordingly, the orders of both the authorities below are set aside and the addition made by the AO as confirmed by CIT(A) is deleted.

5. In the result, appeal of the assessee stands allowed.

*Order pronounced in the open court on 13 /11/ 2020.*

Sd/-  
(N.R.S.Ganesan)  
Judicial Member

Dated: 13/11/2020  
Aks/-(P)

//True Copy//