

**In the Income-Tax Appellate Tribunal,
Agra Bench, Agra**

**Before : Shri Laliet Kumar, Judicial Member And
Dr. Mitha Lal Meena, Accountant Member**

**ITA No. 123/Agra/2019
Assessment year: 2015-16**

Shri Vishnu Kant, Pinahat, Agra (Appellant)	vs.	Income-tax Officer, 2(1)(5), Agra (Respondent)
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Appellant by	Sh. Sushil Maheshwari, CA
Respondent by	Smt. Sita Srivastava, Sr. DR

Date of Hearing	05.03.2021
Date of Pronouncement	05.03.2021

ORDER

Per Laliet Kumar, J.M.:

This appeal is filed by the assessee against the order dated 25.01.2019 passed by Id. CIT(A)-2, Agra for the assessment year 2015-16, challenging the addition made by the Assessing Officer of Rs.24,58,007/- on account of estimated profits without rejecting the books of account.

2. Addressing to ground No. 3 & 4, our attention was drawn by the Id. AR to para 3, 4 and 5 of the assessment order to the following effect :

3. On perusal of the Return of income filed for A.Y. 2015-16, it has, however, been noticed that in the 'computation of presumptive income from business' part of the Return the assessee has declared total sales of Rs, 12,50,000/- and net profit of Rs. 2,50,000/- by applying provisions of section 44AD of 'the Act', which comes to 20% of the sales declared. It, therefore, clearly shows that the assessee has suppressed the actual sales and net profit there-on. Had the Return not been

picked up for scrutiny, the actual sales made by the assessee could not have been brought on record. As the assessee has himself shown net profit from the business @ 20% of the total sales declared in the Return by applying provisions of section 44-AD of 'the Act', in absence of audit report, the same procedure is being followed here to work out net profit on actual turnover shown in the Trading & P&L a/c. Thus, by applying N.P, rate of 20% of the actual turnover of Rs. 1,22,90,035/-, net profit works out to Rs. 24,58,007/-, which will be taken as the net profit from the business.

4. The assessee has shown cash balance of Rs. 85,000/- in the Return of income filed while computing 'presumptive income from the business¹ whereas the cash balance of Rs. 2,77,280/- has been shown in the Balance-sheet filed for the accounting period ended on 31.3.2015. The assessee, vide Order-sheet entry dated 11.12.2017, was required to clarify the position. In reply it has been submitted that it was due to arithmetical mistake. The reply of the assessee in this regard is not convincing. Therefore, the difference of Rs. 1,92,280/- (i.e. 277280 -85000) will be added to the total income.

5. Since the assessee has furnished inaccurate particulars of his income from business and has concealed the income to the tune of Rs. 22,08,007/- + Rs. 1,92,280/- = 24,003287/- for the reasons best known to him, penalty proceedings u/s 271(l)(c) of 'the Act' are initiated to be dealt with separately. Accordingly, penalty notice u/s 271(1)(c) read with section 274 of the Act' is issued and annexed here with."

3. It was submitted by the Id. AR that once the Assessing Officer has accepted the total sales made by the assessee as well as the total purchases made, as is clear from paragraph No. 2 to 4 of the assessment order, then it is not open for the Assessing Officer to estimate the income of the assessee @ 20% on the turnover. It was submitted that the Assessing Officer as well as the CIT(A) have erred in applying the profit rate of 20% on the turnover in the light of above said submissions and also that the books of account have not been rejected.

4. The ld. DR relied upon the orders of the authorities below and submitted that the same do not call for any interference.

5. We have heard the rival contentions and perused the material available on record. In our opinion, it requires to special knowledge in the case of a trader to find out the profit earned by the trader, as the profit is equal to the selling price received by the trader minus the cost of purchase of goods by such trader. In the present case, the total purchases made by assessee were for Rs.1,18,97,992/- and total sales were for Rs.1,22,90,035/-. Therefore, the profit, if any, would be $\text{Rs.}1,22,90,035 - 1,18,97,992 = 3,92,043/-$. In our view, the maximum profit earned by the assessee would be Rs.3,92,043/-. Admittedly, the assessee should have incurred some cost for selling the goods which are required to be given deduction thereof to the assessee. The assessee has not given any details of such cost of expenses incurred by the assessee As a result, we are required to estimate the cost incurred by assessee. Considering the totality of circumstances, we are of the opinion that the assessee would have earned the profit of Rs.3,00,000/-. Accordingly, the orders passed by the lower authorities are modified with the above observations.

6. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 08/03/2021.

Sd/-
(Dr. Mitha Lal Meena)
Accountant Member

Sd/-
(Laliet Kumar)
Judicial member