

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" GAUHATI*

Before Shri Sanjay Garg, Judicial Member

आयकर अपील सं.य/ITA No. 111/Gau/2019 Assessment Year:2013-14
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Ram Deo Jat M/s. Bajrang Hardware Stores, Mawlonghat Bara Bazar, Shillong, 793002, Assam. PAN: ABYPJ 1797Q	बनाम / V/s.	I.T.O., Ward 2, Shillong Shillong, Aaykar Bhavan, MG Road, Shillong, 793001, Assam
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

Hearing through video Conferencing

अपीलार्थी की ओर से/By Appellant	Shri Chetan Gangwal, C.A, A.R
प्रत्यर्थी की ओर से/By Respondent	Shri Jayanta Mridha, JCIT, SR-DR
सुनवाई की तारीख/Date of Hearing	16-03-2021
घोषणा की तारीख/Date of Pronouncement	16-03-2021

आदेश /O R D E R

The present appeal has been preferred by the assessee against the order dated 24-01-2019 of the Commissioner of Income-tax (Appeals), Shillong [hereinafter referred to as 'CIT(A)'].

2. In this appeal, the assessee has taken the following grounds of appeal:-

“1.1 Discrepancy in Value of Stock

That the learned Assessing Officer has made addition of Rs. 11,60,736/- as the difference in physical stock and the stock as per books of account. Total Additions and calculations made are presumptive basis and does not reflect actual cost/value of Stock. The physical stock is valued at Maximum Retail Price (MRP) or Sale Price (SP) of the goods. The impact of Vat in Stock is also not stated. Assessee requested to consider the value of stock as presumptive and request to delete it fully.

1.2 That the learned Assessing Officer was not justified by making the additions of Rs. 2,99,225/- as difference in cash represents unaccounted income. Since on the date of survey the books of accounts were not up

dated as well as the figure taken as Balance in Cash Book as on date is imaginary, therefore the addition made should be deleted fully.”

3. Vide ground no. 1 the assessee has contested the validity of confirmation of addition of Rs. 11,60,736/- made by the Learned Assessing Officer (in short, the Ld. AO) on account of difference in physical stock as compared to that has been recorded in books of account .

4. Brief facts relating to the issue are that a survey action u/s. 133A of the Income Tax Act, 1961 (in short, the ‘Act’) was carried out at the business premises of the assessee. When the physical stock available was compared with the books of accounts of the assessee, a difference of Rs. 11,60,736/- was found. On being asked to explain in this respect, the assessee submitted that the figures as collected by the survey party were not correct. That the assessee has re-conciled the physical stock. The figures of the freight and cartage were not taken into account by the survey party. Even in the statement recorded u/s. 131(1) of the Act, the assessee had stated that if there was any discrepancy noted by the survey party that will be explained at the time of assessment. During the course of assessment proceedings, the assessee submitted necessary details for verification. However, the Ld. AO noted that since there was a difference in stock valuation noted by the survey party, he therefore, made the impugned addition, which has been confirmed by the Ld. CIT(A) also. The assessee, thus, has come up in appeal before this Tribunal.

5. I have heard the rival contentions and gone through the orders of the lower authorities. A perusal of the assessment order reveals that the assessee submitted necessary details and books of accounts to explain to the Ld. AO that, in fact, there was no difference in valuation of stock. However, the Ld. AO without considering the submissions of the assessee has made the impugned addition in a mechanical manner solely on the reason that the survey party had shown/found the difference in valuation of stock. He has not considered at all the reconciled statement submitted by the assessee. The Ld. CIT(A) also upheld the impugned addition made by the Ld. AO without considering the details submitted by the assessee. In view of this, impugned

addition is not sustainable in the eyes of law. Accordingly, the same is ordered to be deleted. Ground no.(1.1) of assessee's appeal is allowed.

6. Vide ground no. (1.2), the assessee has contested the validity of confirmation of addition of Rs. 2,99,225/- on account of excess cash found during the survey action as compared to the cash recorded in the cash book. The assessee submitted that there was no excess cash found and submitted the reconciled statement to show that no excess cash was found by the survey party during survey action. The Ld. AO, however, without considering the submissions made by the assessee made the impugned addition on the basis of the report of the survey party. The Ld. CIT(A) also did not consider the submissions made by the assessee.

7. After considering the rival contentions, I do not find any justification on the part of the lower authorities in making/confirming the impugned addition without considering the explanation submitted by the assessee. Accordingly, the same is ordered to be deleted. Ground no.(1.2) of assessee's appeal is allowed.

In view of the above, the appeal of the assessee stands allowed.

Order pronounced in open court at the time of hearing on
Tuesday, 16th March, 2021.

Sd/-
(Sanjay Garg)
Judicial Member

**PP/Sr.PS

दिनांक:- 16-03-2021 कोलकाता/Kolkata

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant/Assessee: Ram Deo Jat M/s. Bajrang Hardware Stores, Mawlonghat Bara Bazar, Shillong, 793002, Assam.
2. प्रत्यर्थी/Respondent-I.T.O., Ward-2, Shillong, Aaykar Bhavan, MG Road, Shillong, 793001, Assam
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Guwahati
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,
For, Senior Private Secretary