

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'A' : NEW DELHI)**

(THROUGH VIDEO CONFERENCE)

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER,
and
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.5229/Del./2018
(Assessment Year : 2014-15)**

Anita Garg.
M/s. Novelty Trading Company
303, Shivaji Nagar, Pilkhuwa,
Distt.- Hapur
(PAN : AAYPG2767Q)

Vs. Income Tax Officer,
Ward-3(4), Hapur

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Alok Gupta, CA

REVENUE BY : Shri Prakash Dubey, Sr.DR

Date of Hearing : 25.05.2021

Date of Order : 24 .06.2021

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER

Appellant, Smt. Anita Garg Prop. M/s. Novelty Trading Company (hereinafter referred to as 'assessee') by filing the present appeal sought to set aside the impugned order dated 23.05.2018 passed by the Commissioner of Income-tax (Appeals),

Muzaffrnagar qua the assessment year 2014-15 on the grounds inter alia that :-

"Ground No. 1

That on the facts and circumstances of the case and in law, the order passed by Ld. CIT (A) u/s 250 is bad in law.

Ground No. 2

That Ld. CIT (A) has erred in confirming the order passed by the Ld. AO under section 143(3) of the Income-tax Act, and thereby erred in confirming the arbitrary additions of Rs. 48,74,385/- made, without any concrete evidences, by the Ld. AO.

Ground No. 3

That the Ld. CIT (A) has erred in confirming the capricious net profit rate of 2 per cent applied on the total turnover by the Ld.AO without considering the margins earned by the assessee in his own cases.

Ground No. 4

That the Ld. CIT(A) has erred in not discussing or distinguishing the case laws relied by the assessee, thereby erred in passing the non-speaking order without considering the judicial precedents delivered by various courts under the similar facts and circumstances as given in the present case.

Ground No. 5

That the Appellant craves to leave to add / alter any / all grounds of appeal before or at the time of hearing of the Appeal"

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessing Officer after rejecting the books of accounts maintained by the assessee u/s 145 of the Act proceeded to apply the net profit of 2% on the total turn over of Rs. 26,65,92,371/- resulting into income of Rs. 53,31,847/- under the head "Income from profession & business" and thereby made a addition of Rs. 48,74,385/-.

3. Assessee carried the matter before Ld. CIT(A) by way of filing appeal who has confirmed the addition by dismissing the

appeal. Feeling aggrieved the assessee has come up before the tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. Undisputedly, assessee has failed to answer the queries raised by the Assessing Officer during assessment proceedings qua the entries recorded into the books of accounts. It is also not in dispute that assessee has failed to furnish the bills of purchases from related party and bills qua similar items procured from un-related party to prove that the purchases made are at Arms Length Price. It is also not in dispute that neither during the first appellate proceedings nor before the Tribunal, assessee has opted to produce and prove the books of accounts rejected by the AO.

6. In the backdrop of the aforesaid facts and circumstances of the case we are of the considered view that keeping in view the conduct of the assessee in withholding the documents nor he has proved the books of accounts; that the fact that he is not new in the business, and has turn-over of Rs.26,65,92,371/- during the year under consideration, the best assessment judgment was the only

option with the revenue authorities, we are of the considered view that net profit @ 1.5% needs to be applied to reach at the logical conclusion to the total turn-over of Rs. 26,65,92,371/-. Consequently appeal filed by the assessee is partly allowed.

Order pronounced in open court on 24th June, 2021

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated: the 24th June, 2021

Binita

Sd/-

**(KULDIP SINGH)
JUDICIAL MEMBER**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI