

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI MAHAVIR SINGH, VICE PRESIDENT  
&  
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.6788/Mum/2018  
(Assessment Year :2012-13)**

M/s. Pankaj Metals 18/19, A.C. Market Third Floor, Tardeo Road Mumbai – 400 034	Vs.	Asst. Commissioner of Income Tax Circle-19(2), Room No.3103, Third Floor, Mittal Court Nariman Point Mumbai- 400 034
<b>PAN/GIR No. AAIFP1763H</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Nishit Gandhi
Revenue by	Ms. Shreekala Pardeshi
<b>Date of Hearing</b>	<b>01/07/2021</b>
<b>Date of Pronouncement</b>	<b>14/07/2021</b>

**आदेश / O R D E R**

**PER M. BALAGANESH (A.M.):**

This appeal in ITA No.6788/Mum/2018 for A.Y.2012-13 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-7, Mumbai in appeal No.CIT(A)-7/IT-190/148/2017-18 dated 14/09/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 30/03/2015

by the Id. Asst. Commissioner of Income Tax-19(2), Mumbai (hereinafter referred to as Id. AO).

2. The assessee has raised the following grounds:-

1. *In the facts and in the circumstances of the case, the Id. AO erred in making addition of Rs.3755996/- on account of fall in G.P. from 0.83% in A.Y.2011-12 to 0.46% in A.Y.2012-13 and the Ld. CIT erred in restricting the addition to Rs.1941743/- by estimating the G.P. at 0.65% as against the actual G.P. of 0.46% without appreciating that the appellant maintains all the books of accounts including quantity register and the same are audited u/s. 44AB of the Income Tax Act, 1961 and the higher G.P. in A.Y.2011-12 was on account of write off of business creditors of Rs.1820007/- which is 0.32% of turnover.*
2. *In the facts and in the circumstances of the case, the Id. AO erred in estimating the G.P. without appreciating the fact that the assessee has furnished the quantitative tally from which no mistake was found leading to estimation of G.P. and the learned CIT erred in estimating the G.P. at 0.65% as against the actual G.P. 0.46% on adhoc basis.*
3. *The appellant craves leave to add, amend, alter or delete any or all grounds of appeal.*
4. *The appellant prays for appropriate relief.*

3. We have heard rival submissions and perused the materials available on record. The only issue that needs to be decided by us is with regard to estimation of profit to be taxed in the hands of the assessee. We find that assessee is a partnership firm engaged in business of trading in aluminum, metal and electrical goods as a commission agent. The assessee in the A.Y.2012-13 had filed its return of income on 30/09/2012 declaring total income at Rs. Nil after claiming set off of brought forward business losses from earlier years. The assessee furnished the books of accounts including the quantitative details together with the tax audit report before the Id. AO. The said book results had been rejected by the Id. AO in view of certain deficiencies u/s.145(3) of the Act. The assessee had declared gross profit of 0.46% of turnover during the year under consideration as against gross profit of 0.83% of turnover in A.Y.2012-13

(i.e. immediately preceding assessment year). The assessee had also stated that it had earned higher GP of 0.83% in A.Y.2011-12 on account of write back of business creditors of Rs.18.20 lakhs. The assessee further pleaded that but for the said write back of business creditors of Rs.18.20 lakhs, the gross profit for A.Y.2011-12 would be only 0.51% of turnover. The Id. AO however, ignored all these contentions of the assessee and proceeded to estimate the gross profit at 0.83% and after granting deduction for indirect expenses determined the net profit and made addition of Rs.37,55,996/- to the business income of the assessee. This profit percentage was reduced by Id. CIT(A) to 0.65%. The Id. AR before us pleaded for adoption of the same GP percentage of 0.51% to be adopted for this assessment year 2011-12.

3.1. Considering the totality of facts and circumstances of the case, we hold that adoption of GP percentage of 0.55% would meet the ends of justice and we direct the Id. AO accordingly. Accordingly, the grounds raised by the assessee are partly allowed.

**4. In the result, appeal of the assessee is partly allowed.**

Order pronounced on 14/07/2021 by way of proper mentioning in the notice board.

**Sd/-**  
**(MAHAVIR SINGH)**  
VICE PRESIDENT

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 14/07/2021  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**