

आयकर अपीलिय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
 AND
 SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.2707/PUN/2017
निर्धारण वर्ष / Assessment Year : 2014-15

Shri Jugalkishor Rampalji Lohiya,
 432, TPS Road, Shivaji Nagar,
 Parli Vaijanth, Distt.-Beed.

PAN : AAKPL9204B

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
 Ward - 2, Beed

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
 Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing :21-03-2022
 घोषणा की तारीख / Date of Pronouncement :30-05-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 23-08-2017 passed by the Commissioner of Income Tax (Appeals)-2, Aurangabad ['CIT(A)'] for assessment year 2014-15.

2. We find no representation on behalf of the assessee nor any application filed seeking adjournment. Thus, the assessee called absent and set ex-parte. Therefore, we proceed to dispose of the appeal by hearing the ld. DR and perusing the material available on record.

3. The assessee raised ground Nos. 1 to 4 amongst which the only issue is to be considered is as to whether the CIT(A) is justified in confirming the addition of Rs.4,83,64,317/- made on the basis of stock statement submitted to the bank in the facts and circumstances of the case.

4. Heard Id. DR and perused the material available on record. We note that the assessee is an individual and engaged in the business of trading in Cotton, Cotton Seeds and Cotton Lint. The assessee filed the return of income on 25-11-2014 for the year under consideration declaring the total income at Rs.Nil, after considering the net loss at Rs.10,75,556/-. The case was selected for scrutiny under CASS. The assessee was assessed u/s. 143(3) on 29-12-2016 wherein the AO made an addition of Rs.4,83,64,317/- towards closing stock on account of difference between closing stock statement as per Profit & Loss account and the stock statement given to the Bank. During the course of assessment proceeding, The AO called for the bank statement given by the assessee to Sangli Urban Co-operative Bank for availing the cash credit facility and compared the same with the stock statement as per the Profit & Loss account of the assessee. On comparison the AO found, the difference in the closing stock of goods as per the Bank statement and the audited copy of Profit & Loss account was to the tune of Rs.4,83,64,827/-. The explanation was sought by the AO to substantiate the difference in stock of Rs.4,83,64,827/-. The assessee contended that "the stock statement submitted to the bank was imaginary and the figure of outstanding debtors submitted to the bank was also imaginary". The details of stock verification, stock audit and clarification was sought from the Bank. The Bank vide its letter dated 21-12-2016 and 22-12-2016 submitted that the "In-charge Manager had verified the stock statement and certified the correctness of the stock as shown by the assessee, which was accordingly issued for the C.C. limit."

We note that the AO invoked the provisions of Section 145(3) of the Act and rejected the books of accounts of the assessee. The difference in stock of raw cotton, cotton lint and cotton seed aggregating to Rs.4,83,64,317/- was added as unexplained investment u/s. 69 of Act by the AO to the total income of the assessee. Being aggrieved with the said assessment order, the appellant preferred an appeal before CIT(A) on two grounds in respect of the additions made on account of unexplained investment in stock u/s. 69 of the Act by the AO. We note that the CIT(A) after considering the facts of the case and various submissions made by the assessee held that the assessee had provided quantitative details of stock before the banking authorities which cannot be overlooked and the assessee's explanation is not acceptable and confirmed the order of AO.

5. We note that the AO issued summons and recorded statement of the assessee on oath. The assessee stated that he has given imaginary figures of stock and debtors to avail loan facilities. The Bank Manager did not visit for verification and the AO relied on the letter of current Branch Manager by stating that the concerned Bank In-charge has visited for a verification of stock. It was explained that the assessee has no godown storage or stock and the Bank Manager did not specify where the concerned Bank In-charge visited for stock verification. We note that the AO relied on the letter received by the Branch Manager that the stock statement was received and the Branch Manager has not confirmed the verification of stock. It was vehemently contended before the CIT(A) that the stamp and sign of Branch Manager is only for the inward receipt of stock statement and also the stock audit applicable to borrowing limit. We note that the Branch Manager did not deny the applicability of stock audit. We note that the AO asked for the visit report but no such report was ever submitted by the Bank Manager even the time and date of visit stock verification was

submitted. We note that in the assessment proceedings, the AO verified all purchase register and sale register but nowhere any adverse discrepancies found in the books of account and stock as per the book of accounts. Therefore, in our opinion, when the Branch Manager did not provide the date and time of visit to the premises of the assessee for verification of stock and the place of verification, we find force in the explanation as offered by the assessee that the imaginary figures were given to the bank to avail loan facilities. Therefore, the order of CIT(A) is not justified and it is set aside. Thus, the grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 30th May, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30th May, 2022.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Aurangabad
4. The Pr. CIT-2, Aurangabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune