

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI**

**BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER**

I.T.A. No. 4748/DEL/2018 (A.Y 2014-15)

ACIT Circle-21(1) Room No. 391, 3 rd Floor, C. R. Building, New Delhi (APPELLANT)	Vs	Rakesh Global Steel P. Ltd. A-26, Basement, Pushpanjai Enclave, Pitampura, Delhi PAN No.AADCR9132J (RESPONDENT)
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Appellant by	Sh. Vinay Kumar, AR
Respondent by	Sh. Girish Kohli, JCIT

Date of Hearing	27.07.2022
Date of Pronouncement	02.08.2022

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the assessee against the order dated 25/04/2018 passed by CIT(A)-XXV, New Delhi for Assessment Year 2014-15.

2. Brief facts of the case are that, the assessee company filed return of income declaring loss of Rs. 3,47,94,641/-, the same was selected for scrutiny and statutory notices were issued, assessment proceedings have been initiated against the assessee. The assessee's representative has participated in the assessment proceedings. The assessment order came to be passed on 29/12/2016 against the assessee, wherein it is held that, the loss reported by the assessee cannot be verified and the trading result

shall be rejected u/s 145 of the Income Tax Act.

4. The Ld. A.O looking into the nature and size of the business of the assessee, considering the possible price fluctuation of the traded commodity and the past trading results, the gross profit of the assessee has been estimated at 2.98% of the turnover. The GP of the estimation purposes has been taken at the same rate as in the preceding year, considering the turnover of the Company which has been increased in comparison to preceding year. Accordingly, an addition of Rs. 3,56,52,420/- has been made.

5. Aggrieved by the assessment order dated 29/12/2016, the assessee has preferred an Appeal before the CIT(A). The Ld.CIT(A) vide order dated 25/04/2018 allowed the appeal.

6. Aggrieved by the order dated 25/04/2018, the Revenue has preferred the present appeal on the following grounds:-

“On the facts and under the circumstances of the case. Ld. CIT(A) has erred in law and facts in coming to the conclusion that rejection of trading results by the Assessing Officer is not tenable and thereby, in effect deleting the addition of Rs. 3,56,52,420/- on account of estimation of Gross Profit @ 2.98 of the turnover, ignoring the facts that the assessee failed to substantiate its claim for steep of decline in Gross Profit as compared to previous year that resulted in rejection of the trading result u/s 145 of IT Act by the AO.”

7. The Ld. DR submitted that the CIT(A) has committed an error while coming to the conclusion that rejection of trading results by the Assessing Officer is not tenable and thereby deleted the addition of Rs. 3,56,52,420/- on account of estimation of gross profit at 2.98 of the turnover, ignoring the facts that the assessee has failed to substantiate its claim for steep of decline the gross profit as compare to previous year that resulted in rejection of

trading result u/s 145 of I.T Act, which is illegal.

8. Per contra, the Ld. Counsel for the assessee relied on the order of Ld.CIT(A) and submitted that no interference is required in the order of the Ld.CIT(A).

9. We have heard the parties, perused the material on record and gave our thoughtful consideration. It is seen from the material on record that the assessee has been consistently following the trading pattern and its trading results have been accepted by the A.O in prior and subsequent periods. Mere no availability of stock register cannot be sufficient to reject trading results when the audited final accounts and other sources including the VAT data are available to cross verify the trading results including the sales verification. It is not the case of the Revenue that the A.O has not doubted the bonafide of the purchases or sale, nor there is an allegation of any manipulation in purchases or sales. Further, the Ld. A.O has also accepted the turnover declared by the assessee and also accepted the books of accounts by not pointing out any specific defect therein. Therefore, in our opinion, rejection of trading results in isolation is not proper and the same is erroneous. Further, it is not in dispute that an assessment order was made u/s 143(3) of the Act for the Assessment Year 2012-13 and 2015-16 wherein the declared results were accepted, the facts of those Assessment Years are similar that of the year under consideration. It is further seen that the gross loss during the Assessment Year 2015-16 is 11.32% against the gross loss of 0.41% during the year under consideration which indicates significant increase. Therefore, the action of the A.O in rejecting the trading result is not found to be tenable.

10. The Ld. A.O has further relied on the observations of the auditors that

“the procedure of physical verification of inventories followed by the management we have heard both the parties and perused the material available on record not reasonable and not adequate in relation to the size of the company and nature of its business.”

Whereas the assessee brought to the notice of the CIT(A) regarding other portion of the audit report which reads as under:-

“the inventories were physically verified during the year by the management at reasonable intervals and the company has maintained proper record of its inventories.”

It is also found that the very same comments have been made by the auditor for Assessment Year 2015-16 in the assessment made u/s 143(3) of the Act. In our view, mere non production of stock register particularly when the quantitative details of opening stock, purchase, sales and closing stock is available cannot be ground to reject the declared trading results and the submission is supported by the said judgments. The Ld.CIT(A) has considered all the above factual aspects and came to a just conclusion in deleting the additions made by the Ld. A.O. Therefore, we are of the considered opinion that the order of Ld.CIT(A) requires no interference. Accordingly, we dismiss the grounds of Appeal of the Revenue.

11. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the Open Court on this 02nd Day of August , 2022

**Sd/-
(Dr. B. R. R. KUMAR)
ACCOUNTANT MEMBER**

**Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Dated: 02/08/2022
R. N Sr. PS *

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI