

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD
BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No.216/Ahd/2022
Asstt.Year : 2015-16

Radha Laxmi Cotton Industries Bhojwa Mandal Road At Viramgam Ta. Viramgam PAN : AADFR 4339 L	Vs	ITO, Ward-3(2)(4) Ahmedabad.
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(Applicant)		(Responent)
Assessee by :		None
Revenue by :		Shri Mukesh Thawani

सुनवाई की तारीख/**Date of Hearing** : 07/09/2022
घोषणा की तारीख /**Date of Pronouncement**: 08/09/2022

आदेश/O R D E R

The present appeal has been filed by the assessee against order passed by the Commissioner of Income Tax(Appeals), National Faceless Appeal Centre (NFAC) (in short referred to as Id.CIT(A) under section 250 of the Income Tax Act, 1961 ("the Act" for short), dated 30.3.2022 pertaining to Asst.Year 2015-16.

2. None appeared on behalf of the assessee nor or any application seeking adjournment was filed. I have noted from order of the authorities below that the assessee has remained non-cooperative in both the assessment proceedings before the AO, who consequently passed *exparte* order under section 144 of the Act and even before the Id.CIT(A) where only written submissions were filed, on the basis

of which the ld.CIT(A) passed his order, noting consistent non-cooperative attitude of the assessee. In the light of the fact that even today, despite notice of hearing being served to the assessee, none appeared nor any application seeking adjournment was filed, it appears that the assessee is in the habit of not pursuing its appeal. Therefore it was decided to proceed with the matter *ex parte*.

3. Sole issue raised by the assessee relates to rejection of books of accounts and estimation of gross profit of the assessee firm. The grounds raised by the assessee in this regard are as under:

“Ground No. 1. Erred in Rejecting Audited Books of Accounts--
Ground No. 2. Erred in Estimating Gross Profit of the Firm
Ground No. 3. Erred in ignoring the documents and evidences submitted
Ground No. 4. Erred in computing interest u/s. 234B & 234C
Ground No. 5. APPELLANT CRAVES LEAVE TO ADD, AMEND, MODIFY, DELETE ALL OR ANY OF THE GROUNDS OF APPEAL AND TO ADD ANY FURTHER DOCUMENTS / EVIDENCES BEFORE AND DURING THE APPELA PROCEEDINGS”

4. As transpires from order of the authorities below, the assessee had returned income declaring loss of Rs.2,96,77,622/-. During the assessment proceedings there was total non-cooperation on the part of the assessee in the assessment proceedings and no details were filed by the assessee. Accordingly, the AO was left with no choice but to pass an *ex parte* assessment order on the basis of material before him. Noting that in the immediately preceding year the assessee had returned net profit of 0.31% in its business, applying the said net profit to the sales of the impugned year, the AO accordingly assessed the net profit of the assessee at Rs.3,25,740/-, as against the huge loss returned by the assessee. Before the ld.CIT(A) also none appeared; only written submissions were filed, which are reproduced at para 5.3 of the order of the ld.CIT(A) as under:

3

“5.3 It is seen that during the assessment proceedings, the appellant was asked (i) month-wise consumption of raw material, production and wastage in quantity and value., month-wise consumption of power in units and value, (iii) working of GP and reason for fall in GP, (iv) produce stock register for verification, etc, but no details were filed by the appellant. During the appellate proceedings, the appellant filed certain details regarding electricity consumption, statement of stock, trading account, audit report etc., which are examined. The appellant has given the reason for low profit during the year as below -

“.. .Further issue raised by the Ld AO is regarding Low Profit Before Tax (PBT). In this context, it is stated here that in the Agro Industry it is very much likely that the prices fluctuate from one period to another and in fact sometimes prices fluctuate from one season to another season due to various reasons such as inflation/deflation, Government regulations, foreign policies, weather conditions etc. the turnover and profit also varies significantly with the changes in Hences. Thus the appellant has lower turnover compared to last year due to prices of cotton dropped off in the year under consideration. Moreover, another significant and crucial reason for the cotton price reduction during the year under consideration is that major sale of cotton is by way of export from India to other countries such as China and Bangladesh etc. and the export of textile including cotton from India to China was dipped during the period under consideration ever since the fall in demand of Indian textile merchandise in China. As a result of this the domestic supply was more in the year under consideration compared to the previous year. The prices in the domestic market were high in the period in which the Raw Material were purchased in the previous year and at the time of selling the same the prices dragged down and being a prudent businessman, the appellant was forced to sell the cotton at the reduced prices which led to lower turnover in the year under consideration. Hence profit also got declined in the year under consideration due to the above mentioned grounds.”

5. The Id.CIT(A) noted that the submissions and reasons given by the assessee for the low profit during the year was very general in nature and nothing specific had been filed by the assessee explaining the reasons for the huge losses returned. He further noted from the financial accounts of the assessee that while opening stock of Rs.4.8 crores and purchases of Rs.6.62 crores raw-material were shown by the assessee, the closing stock was reflected at NIL. He further noted that stock statement in quantity and value did not

show any consumption of opening raw-material and purchase raw-material. He therefore held that valuation of the stock by the assessee could not be relied upon. Accordingly, he upheld rejection of the books of accounts and the assessee and the estimation of net profit based on the profitability shown by the assessee in the preceding year. The relevant finding of the Id.CIT(A) at para 5.3 of the order is reproduced hereunder:

The submission and the reason for low profit during the year as explained by the appellant is a very general explanation. The appellant has not submitted proofs of the reasons such as government regulations, foreign policies, weather conditions etc for rise in the raw materials. The appellant has not filed evidence to show that the prices of raw materials were higher by showing a comparative chart or any purchase bill. The appellant has explained that during the year the export of cotton from India to China and other countries dipped but there is no evidence in the audit report that the appellant had any export earnings during the year. Therefore, the explanation filed by the appellant for low profit margin during the year cannot be accepted.

Perusal of the final accounts of the appellant that reveals that there was a gross loss of Rs. 1,65,88,240 at the rate of -15.79 % during the year. It is seen from the manufacturing expenses and under the head "raw materials consumed" that the opening stock was Rs. 4,80,14,464 and purchases during the year was Rs. 6,62,91,525 but closing stock was shown as NIL. The stock statement in quantity & value filed by the appellant also does show any consumption of the opening raw materials of Rs.4,80,14,464 and purchased raw materials of Rs. 1,88,79,846. Therefore, the valuation of stock by the appellant cannot be relied upon.

In view of the above discussion, the details and explanation given by the appellant is hereby rejected and the findings of the assessing are upheld. Therefore, the ground of appeal regarding the assessment of the net profit is hereby rejected."

6. I have gone through the order of the Id.CIT(A) and I do not find any infirmity in the same. The assessee has at no point of time given any proper explanation for the huge loss returned by it in the impugned year more particularly when there were profits returned in the preceding year. The explanation furnished ,as reproduced above has been rightly found to be general in nature by the

Ld.CIT(A) the assessee having only stated that there are several reasons for fluctuation in prices of goods and bought and sold and mentioning only general market condition variations etc. The ld.CIT(A) has also pointed out anomaly in the books of the assessee. Therefore, I hold that the Ld.CIT(A) has rightly upheld the order of the AO rejecting the books of accounts of the assessee and thereafter justifiably estimating net profit on the basis of that returned in the preceding year. Accordingly, all grounds of appeal of the assessee are dismissed.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the Court on 08th September, 2022 at Ahmedabad.

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Ahmedabad, dated 08/9/2022