

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA
श्री राजपाल यादव, उपाध्यक्ष (कोलकाता क्षेत्र) एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Rajpal Yadav, Vice-President (KZ) & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 2244/Kol/2019
Assessment Year : 2015-16

Maa Sarada Mini Rice Mills (PAN: AADFM 8051 C)	Vs.	ACIT, Circle-2, Burdwan
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	05.09.2022
Date of Pronouncement / आदेश उद्घोषणा की तिथि	19.09.2022
For the Appellant / आदेश उद्घोषणा की तिथि	Shri Amit Agarwal, Advocate
For the Respondent / राजस्व की ओर से	Smt. Ranu Biswas, Addl. CITDR

ORDER/ आदेश

Per Shri Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Commissioner of Income Tax (Appeals)-Burdwan [hereinafter referred to as 'Ld. CIT(A)'] dated 23.07.2019 for the assessment year 2015-16.

2. The issue raised in ground no. 1 is general in nature and does not require any adjudication.
3. The issue raised in ground no. 2 raised by the assessee is against the order of Ld. CIT(A) confirming the addition of Rs. 1,11,99,948/- by the Ld. CIT(A) as made

by the AO on account of excess stock found during the course of survey conducted on the assessee.

4. Facts in brief are that the assessee filed its return of income on 09.09.2015 declaring total income of Rs. 1,31,40,130/-. The case of the assessee was selected for scrutiny and statutory notices were duly issued and served on the assessee. Pertinent to mention that during the relevant financial year, a survey u/s 133A of the Act was conducted on the business premises of the assessee at Bhandardihi, Burdwan on 28.01.2015. During the course of survey, a physical verification of stocks of paddy, rice and bran was carried out in order to ascertain the actual stocks at the business premises. Upon comparison of physical inventories found with the inventories/stocks as per books of accounts maintained by the assessee, the survey team noted that the assessee has huge in discrepancies in the stock of three items as under:

Quantity in quintals

Item	As per Books of Accounts(Qtls)	Physical Verification(Qtls)	Discrepancy(Qtls)
Paddy	944	5110	4166
Rice	2800	4743	1943
Bran	15	149	134

Thereafter the statement of Shri Ashok Kumar Hazra Chowdhury (AKHC) was recorded u/s 131 of the Act and he agreed that there was an excess stocks to the above extent. The said excess stocks were valued at Rs. 1,11,99,948/- as under:

Excess stock during the course of survey

Item	Quantity	Rate (Rs)/Qtls	Value (Rs.)
Paddy	4166 qtls	1560/-	64,98,640/-
Rice	1943 qtls	2316/-	44,99,988/-
Bran	134 qtls	1500/-	2,01,000/-
Total			1,11,99,948/-

According to the AO, the said stocks were not shown by the assessee as undisclosed investments in the income tax return over and above the regular stocks and as such the said undisclosed stocks have not been offered to tax. Finally the books of account of the assessee were rejected by the AO and the value of stocks as found excess during the course of survey was added to the income of the assessee in the assessment framed.

5. In the appellate proceedings, the Ld. CIT(A) has confirmed the order of AO reasoning that the assessee could not substantiate with evidences as to how the excess stocks found during the course of survey u/s 133A have been accounted in the income tax return and offered to tax.

6. After hearing the rival submissions and perusing the material on record including also qualitative details furnished before us by the assessee, we observe that the stocks as on 28.01.2015 as per the audited books of account were exactly the same as were found during the course of survey i.e. paddy 5110 quintal, Rice 4743 quintal and bran 149 quintal meaning thereby that these excess stocks were found to be duly accounted for in the books of account maintained by the assessee. Thus we note that it is only after recording that excess stocks in books of account, the final inventories as on 31.03.2015 were arrived at and accordingly valued. We also note from the tax audit report furnished by the assessee that due to this accounting of excess stocks, the GP rate of the assessee has gone up from 3.27% to 5.88% whereas net profit swelled from 3.02% to 5.71%. We also find that the assessee has categorically submitted before the Id CIT(A) that the excess stocks as found in the survey have duly been incorporated in the audited financial reports/accounts as on 31.03.2015 due to which the gross profit and net profit have gone up substantially. We note that the Id CIT(A) has reproduced the reply of the assessee to this effect on page no. 5 para 7 in the appellate order. Therefore in our considered view the excess stocks stood offered to tax automatically once they are accounted for in the books of accounts as the final inventories were arrived at after taking these excess stocks into accounts. Therefore we are not in agreement with the conclusion of both the

authorities below on this issue. Considering quantitative details of stocks, books of accounts of the assessee and tax audit report placed before us, we hold that the assessee has duly accounted for the excess stocks found during survey in the books of account which has resulted into higher GP and NP going up from 3.27% to 5.88% and 3.02% to 5.71% respectively vis-a-vis the preceding financial year. Under these facts and circumstances, we are inclined to set aside the order of Ld. CIT(A) and direct the AO to delete this addition. The ground no.2 raised by the assessee is allowed.

7. Since we have allowed ground no. 2 in favour of the assessee, the issue raised in ground no. 3 which is without prejudice and needs no adjudication.

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

Order is pronounced in the open court on 19th September, 2022

Sd/-

(Rajpal Yadav /राजपाल यादव)
Vice-President/ उपाध्यक्ष

Sd/-

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 19th September, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Maa Sarada Mini Rice Mills, Vill & P.O.-Bhandardihi, Dist-Burdwan-713426
2. Respondent – ACIT, Circle-2, Burdwan
3. The CIT(A)- Burdwan (Sent Through E-mail)
4. Pr. CIT- Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata