

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट
**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT**

(Conducted Through Virtual Court)

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

**ITA No.257/RJT/2019
Asstt.Year : 2011-12**

Bhaskar Amrutlal Katariya C/o. R.K. Shikla & Co. 201, Opera Tower Jawahar Road Opp: Galaxy Hotel, Rajkot. PAN AOVPK 5083 J	Vs	ITO, Ward-2(1)(2) Rajkot.
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(Applicant)		(Responent)
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Assessee by :	None
Revenue by :	Shri B.D. Gupta, Ld.DR

सुनवाई की तारीख/Date of Hearing : 31/08/2022
घोषणा की तारीख /Date of Pronouncement: 1` /11/2022

आदेश/O R D E R

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

The present appeal has been filed by the assessee against order passed by the Commissioner of Income Tax(Appeals)-2, Rajkot (in short referred to as ld.CIT(A) under section 250(6) of the Income Tax Act, 1961 ("the Act" for short), dated 14.8.2019 pertaining to Asst.Year 2011-12.

2. None appeared on behalf of the assessee. From the record it is noticed that the notice was served on the assessee through RPAD. However, the same was returned with remark "refused". Therefore, it can be safely inferred that the assessee is not interested in

pursuing his appeal in the Tribunal. Accordingly, we proceed to decide the matter ex parte *qua* the assessee-appellant after hearing the ld.DR and considering the material available on record.

3. In the appeal, the assessee has raised the following grounds:

“1. The honorable Commissioner of Income Tax (Appeals) - 2, Rajkot erred in confirming total gross receipts of Rs.11334575 as against Rs.5680000 as shown by the Assessee.

2. The honorable Commissioner of Income Tax (Appeals) - 2, Rajkot erred in confirming net profit at the rate of 8 percent of the receipts found in bank account amounting to Rs.11334575.

3. Assessee maintains regular books of accounts and declared total turnover of Rs.5680000. Addition confirmed by the honorable Commissioner of Income Tax (Appeals) - 2, Rajkot is purely on surmises and conjectures without considering evidences submitted by the Assessee during the Assessment proceedings as well as during the Appellate proceedings.

4. Brief facts of the case emerging from the orders of the lower authorities is that the assessee is engaged in trading of silver ornaments on commission basis. The assessment under section 143(3) read with section 147 of the Act was framed in the case of the assessee. It was contended by the assessee that the sale receipts were deposited in the bank account with Bank of Maharashtra and payments were made to manufacturers after collecting commission out of it. In the return of income filed in response to notice under section 148, the assessee declared net profit of Rs.42,582/- on a turnover of Rs.56,80,000/- taking rate of profit of 0.75%. The AO observed that including the cash deposits of Rs.92,79,930/- in Bank of Maharashtra, the total credit in the bank account of the assessee were of Rs.1,13,34,575/- and thus turnover of the assessee was Rs.1,13,34,575/- against which the assessee had declared turnover of only Rs.56,80,000/-. The AO accordingly sought explanation for the same and proposed to take the balance cash deposit of Rs.92,79,930/- as the turnover. However, the assessee has shown

his inability to produce the books and vouchers for verification. The AO treated the turnover of assessee at Rs.1,13,34,575/- and computed net profit at 8% as against 6% declared by the assessee. Against this action, the assessee went in the appeal. The Id.CIT(A) after considering the submissions of the assessee, confirmed the action of the AO by observing as under:

“One the contentions of assessee is that the Assessing Officer has not rejected the books of accounts and no showcause notice was issued before adopting turnover at Rs.1,13,34,575/- and the turnover declared by assessee is less than that. It is also noteworthy that the assessee had not filed any return of income and it was only in response to notice u/s 148 that the assessee filed the return of income declaring turnover of Rs.56,80,000/- and net profit of Rs.42,582/-. The assessee has not produced any vouchers and books of accounts etc for verification from which real nature of business of assessee can be ascertained. In my considered opinion the Assessing Officer has been quite reasonable in accepting the claim of assessee that deposit in the bank account were in the nature of business turnover. The contentions of assessee that his turnover was only Rs.56,80,000/- and the balance deposits were out of withdrawals is not acceptable as the stated deposit out of withdrawals are much more than stated turnover. Moreover, apparently the withdrawals must have been used for purchases also and therefore the withdrawals were not available for redeposit in bank account. Therefore the contentions that withdrawals were redeposited in the bank account is not tenable. It is also noteworthy that even though the assessee has claimed that the net profit in the stated line of business was 0.5 to 0.75%, real nature of transaction of assessee has not been established. Besides, the basis of net profit 0.5% to 1% has also not been spelt out. It is also noteworthy that the assessee himself had admitted net profit @6% during the assessment on the declared turnover. It is beyond comprehension why the assessee would declare net profit of 6% when he had earned profit at the rate of 0.75% only.

In view of the above discussion it is clear that the assessee has not been able to establish exact nature of his business nor has he been able to establish that the deposit in the bank account were out of earlier withdrawals. In these facts in my considered opinion the Assessing Officer has been quite fair and reasonable in assessing income of the assessee at 8% on turnover of assessee ascertained from the deposits in the bank account. In my considered opening the action of the Assessing Officer calls for no interference. The addition is confirmed. The ground of appeal is rejected.”

5. We have gone through the order of the Ld.CIT(A). It is an undisputed fact that the assessee failed to produce Books of accounts before the Revenue authorities. Therefore all his claims and explanation regarding the amounts deposited in the Bank are all unsubstantiated. The assessee claim therefore that out of total deposits in Bank of Rs1,13,34,575/- only Rs.56,80,000/- related to his business turnover while the remaining was pertaining to withdrawals re-deposited in the Bank, has been, we hold, rightly rejected by the Ld.CIT(A) as untenable. We agree with the Ld.CIT(A) that in the absence of any Books of accounts produced by the assessee, the AO was quite reasonable in accepting assessee's claim of Rs.56,80,000/- being deposits of his business turnover.

Even the issue of applicability of net profit rate to the turnover, it is not denied /refuted, that the assessee himself had admitted to net profit @ 6% in his business. The assessee having returned net profit @ 0.75% is therefore unjustified as per his own admission and the Ld.CIT(A) we hold has rightly upheld the net profit rate of 8% applied by the AO.

In view of the above the grounds raised by the assessee are dismissed.

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

Order pronounced in the Court on 11th November, 2022 at Ahmedabad.

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

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

Ahmedabad, dated 11/11/2022