

। आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, KOLKATA
BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
&
SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 2220/Kol/2019
Assessment Year: 2015-16

M/s. Tarapada Modern Rice Mills Indus Haradhan Dibakarhati, Indus Bankura - 722205 PAN : AAFFT1837P	Vs	Asstt. Commissioner of Income Tax, Circle-2, Burdwan
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Suvo Chakraborty, Advocate
Revenue by :		Shri Ranu Biswas, Addl. CIT, D/R

सुनवाई की तारीख/Date of Hearing : 07/09/2022
घोषणा की तारीख /Date of Pronouncement: 04/11/2022

आदेश/ORDER

PER SHRI RAJESH KUMAR, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the Learned Commissioner of Income Tax (Appeals) – Burdwan, Kolkata (hereinafter the "ld. CIT(A)") dt. 31/07/2019, passed u/s 250 of the Income Tax Act, 1961 ("the Act'), for Assessment Year 2015-16.

2. The assessee has raised the following grounds:-

- “1. For that Appellate confirmation of excess stock discrepancy is unjust and incorrect since the said excess stock should have been treated as a business income of appellant and G.P. Rate should have been applied.
2. For that since the said excess stock is part and parcel of whole stock and since the said stock is separately identifiable, therefore A.O. should have applied the G.P. Rate on said stock.
3. For that appellate authority should have appreciate the fact that appellant has regularized the said stock in books and paid substantial advance tax on said excess stock. Thus causing no revenue loss.
4. For that appellant may modify the grounds.”

3. The issued involved in Ground No. 1 is against the confirmation of addition of Rs.50,03,733/- by the ld. CIT(A). The addition was made on account of excess stock found during the course of survey.

4. Facts in brief are that a survey u/s 133A of the Act was conducted at the business premises of the assessee firm during the year and discrepancy between the stock as per books of account and the stock as found upon physical verification was found by the Assessing Officer, which comprised of paddy, rice and bran to the tune of Rs.50,03,733/-, details whereof is given at para 3.1., page 2 of the assessment order.

4.1. The Assessing Officer made the said additions to the income of the assessee after rejecting the contentions of the assessee that stocks had been duly accounted for in the books of accounts produced before the Assessing Officer. In the assessment framed u/s 143(3) of the Act, vide order dt. 29/12/2017 besides making other additions.

5. Aggrieved the assessee challenged the order of the Assessing Officer before the Id. CIT(A), who dismissed the appeal of the assessee on the ground that the assessee has failed to demonstrate as to how the excess stock of Rs.50,03,733/- has been reflected in the books of accounts and ultimately in the profit & loss account of the assessee and justified the addition.

6. After hearing rival contentions and perusing the material available on record, we observe that undoubtedly the assessee has conceded the excess stock found during the course of survey and the same was offered before the survey team and an advance tax was also deposited accordingly in three instalments. We note from the assessment order page 12 that the Assessing Officer has added this amount by stating that the assessee has not undisclosed stock in the books of accounts separately whereas it emerges out from the documents as placed before us that the said stock was duly accounted in the books of accounts. Thus, the final accounts for the year ending 31/03/2015 was determined after duly taking this excess stock into account and profit was determined accordingly. Further we note that the books of accounts were audited and also produced before the AO and AO has not pointed out any defect or deficiency in the books of accounts and even not rejected by disbelieving them but straight a way added the amount of

3

excess stock. In view of the above facts and circumstances, we are not in agreement with the conclusion drawn by the Ld. CIT(A) on this issue and accordingly reverse order of Ld. CIT(A) and direct the delete the addition of Rs. 50,03,733/-.

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

Order pronounced in the Court on 4th November, 2022 at Kolkata.

Sd/-

**(RAJPAL YADAV)
VICE PRESIDENT**

Sd/-

**(RAJESH KUMAR)
ACCOUNTANT MEMBER**

Kolkata, Dated 04/11/2022

**SC Sp/8*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata