

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI 'SMC' BENCH : PANAJI
(THROUGH VIRTUAL HEARING)

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA.No.300/PAN/2019
Assessment Year 2012-2013

M/s. Shree Venkateshwara Enterprises, No.8, Swami Krupa Apartment's, Bichu Galli, Shahapur, Belagavi. PIN 590 003. Karnataka PAN ABTFS7515E	vs.,	The Income Tax Officer, Ward – 1(1), FK Commercial Complex, Opp. District Hospital, Dr. B.R. Ambedkar Road, Belagavi – 590 001. State-Karnataka.
(Appellant)		(Respondent)

For Assessee :	Shri Omkar Godbole
For Revenue :	Shri N. Shrikant

Date of Hearing :	17.11.2022
Date of Pronouncement :	23.11.2022

ORDER

This assessee's appeal for assessment year 2012-13, arises against the CIT(A), Hubballi's order dated 06.11.2019 passed in case ITA No.CIT(A)/Hubli/10243/2017-18, in proceedings u/s. 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties. Case file perused.

3. The assessee raise the following substantive grounds in the instant appeal :

1. *“On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals), Hubli [CIT-(A)] has erred in passing the order (the impugned order), dismissing the appeal made against the demand raised by the Assessing*

Officer under section 143(3) of the Income Tax Act, 1961 (the Act).

- 2. That the learned CIT-(A) has not considered the Appellant's just and valid arguments that the Income Tax Officer, Ward-2(1), Belagavi (the learned 'AO') had, before passing the impugned order under sections 143(3) of the Act, not given the Appellant a reasonable opportunity of being heard and failed to bring on record the submissions made by the Appellant and thereby resorted to pass the non-speaking order.*
- 3. The Ld. CIT(A) did not pass the order on merits and just dismissed the order citing the reason mentioned in the assessment order. The Ld. CIT(A) did not consider the submissions made before the Ld. Income tax Officer regarding the complaints raised against him at various occasions during the course of assessment proceedings.*
- 4. The CIT-(A) failed to appreciate that the learned AO erred in passing the impugned order since the assessment has not been made on all the relevant materials furnished and submissions made during the course of assessment.*
- 5. Your petitioner craves leave to add, amend, alter or delete any or all the grounds of appeal before or at the time of hearing."*

4. I have given my thought consideration to vehement rival contentions so far as the assessee's sole substantive grievance challenging correctness of both the lower authorities action

estimating its net profit @ 2% in mobile hand sets and TV trading etc., business is concerned.

5. It emerges during the course of hearing that neither parties stand in issue deserve to be accepted in entirety. This is for the reason that although the assessee stood assessed at net profit rate of 1.19% in assessment year 2011-12, learned counsel could hardly throw sufficient light on its book results in the impugned assessment year stating declined profits @ 0.86% only. The Revenue is found to be equally not acceptable wherein it has not considered assessee's earlier book base results or comparable instance in the very line of business. Faced with the situation, I deem it appropriate to restrict the impugned net profit estimation @ 2% to that @ 1.3% only with a rider that the same shall not be treated as a precedent. The assessee gets part relief in very terms. Necessary computation shall follow as per law.

6. This assessee's appeal partly allowed.

Order pronounced in the open court on 23.11.2022.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 23rd November, 2022

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Panaji 'SMC' Bench, Panaji
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches,
Pune.