

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER  
AND  
Dr. S. SEETHALAKSHMI, JUDICIAL MEMBER**

**ITA Nos. 79/Jodh/2020**  
**(ASSESSMENT YEARS- 2016-17)**

Rajendra Singh Bohro Ki Dhal, Pali.	Vs	Income Tax Officer, Ward-2, Jalore.
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN NO. FNGPS 8486 C</b>		

**ITA Nos. 80/Jodh/2020**  
**(ASSESSMENT YEARS- 2016-17)**

Tejpal Singh BadshahKa Zanda, Pali.	Vs	Income Tax Officer, Ward-1, Nagaur.
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN NO. CFUPS 7814 H</b>		

<b>Assessee By</b>	None
<b>Revenue By</b>	Ms. Nidhi Nair, JCIT-DR
<b>Date of hearing</b>	20/01/2023
<b>Date of Pronouncement</b>	13/03/2023

**ORDER**

**PER: Dr. S. Seethalakshmi, JM**

These are two appeals filed by the assesses mentioned above, aggrieved from the order of the Learned Commissioner of Income Tax-2,

Jodhpur [herein after referred as “CIT(A)” ] for the assessment years 2016-17, both dated 17.12.2019. Since the issues involved are common in both the appeals, they were heard together and are being disposed of by this common order, for the sake of convenience.

2. We shall take up first ITA No. 80/Jodh/2020 for the A.Y. 2016-17 filed by Shri Tejpal Singh, wherein following grounds have been raised by the assessee:-

*“1. The ld. CIT(A) has erred in sustaining ad hoc trading addition of Rs. 4,53,882/- made by estimating NP rate at 2.5% as against declared by the appellant at 1.34. The addition and estimation so sustained is bad in law and bad on facts.*

*2. The appellant craves liberty to add, amend, alter or modify any of the ground of appeal on or before its hearing before your honours.”*

3. We notice that, in both the appeals, grounds are similar, facts are similar. Hence, we consider the facts and ground taken in ITA No. 80/Jodh/2020 for A. Y. 2016-17 as lead case.

4. None appeared on behalf of the assessee. However, the Bench decided to proceed the matter on merit based on the materials available on record. Briefly, the facts of the case are that the assessee is a liquor contractor and

filed his return of income on 13.10.2016 declaring total income amounting to Rs. 5,25,730/-. The case was selected under complete scrutiny through CASS for reason that the verification of low income from TCS. Therefore, a notice u/s 143(2) was issued on 03.07.2017 which was served upon the assessee. Further, notice u/s 142(1) were issued on 09.07.2018, 27.07. 2018, 02.11.2018 and 29.11.2018. In response to these notices the ld. AR of the assessee attended and furnished certain details/explanations. The AO completed the assessment u/s 143(3) of the Act on 12.12.2018, determining the assessee's total income at Rs. 11,75,530/- by making certain disallowances, which are contested in the present appeal.

5. In the aforesaid order, the AO issued notice to the assessee and re-adjudicated the matter. The relevant part of the assessment order is reproduced as under:-

“On perusal of return filed it is observed that assessee has declared gross receipts of Rs. 3,91,84,296/- and declared a net profit of Rs. 5,25,726/- @ 1.34%. Through various notices issued, the assessee was asked to produce complete books of accounts for verification and bills/vouchers in support of your claims. No details were filed while it was repeatedly asked to him vide notices issued on various dates. Therefore, vide notice u/s 142(1) issued on 29/11/2018, it was categorically asked that in absence of evidence of expenses claimed in P&L account, an addition of Rs. 6,49,803/- (11,75,529/-less 5,25,726/-) will be made taking net profit of Rs 11,75,529/- @ 3%.

On 09/12/2018, A/R of the assessee filed only copy of ledger accounts alongwith Vakalatnama. No bills/vouchers of expenses were produced for verification. Hence an amount of Rs. 6,49,803/- is added taking net profit of Rs. 11,75,529/-@ 3% on total gross receipts of Rs. 3,91,84,296/-.”

6. Being aggrieved by the AO the assessee preferred an appeal before the Id. CIT(A) and the findings are reproduced as under:-

“4.1 I have considered the assessment order, appellant's submissions and documents on record. The AO while passing the assessment order, estimated the appellant's income by applying NP rate of 3% on the total receipt of Rs. 3,91,84,296/-. I find that AO, while applying the NP rate of 3%, AO considered various submissions made before him in respect of low profit rate. The AR of the appellant contended the AO's action of applying NP rate 3%, is not correct as the AO had not pointed out any specific defects in assessee's books of accounts. Whereas the truth is that the AO did not have opportunity to examine the complete details in absence of furnishing the same. However, I find some force in the appellant's arguments and find that AO's action of applying such higher NP rate was not fully justified. It is seen that the turnover of the appellant had increased in the year under consideration as compared to the preceding year and with increase in turnover, the profit percentage is expected to reduce. Keeping in view the various facts as discussed above. Therefore, the AO is directed to apply NP rate of 2.5% on total suppressed sale of Rs. 3,91,84,296/- and recompute the total income of the assessee. Accordingly, I deem it proper to restrict the NP rate @ 2.5% as against @ 3% applied by the AO. Held accordingly. The appellant gets partial relief on this account.

05. The last ground of appeal is general in nature and do not require any specific adjudication. Accordingly, the same are being treated as duly disposed off hereby.

06. In the result, the appeal is partly allowed.”

7. Being aggrieved by the order of CIT(A) the assessee has preferred this appeal before us .

8. We have heard the submissions made by the ld. DR and perused the documents available before us. We notice that the AO has rejected the books of account, since the assessee has not produced any evidence. We notice that the Assessing Officer has estimated profit @ 3% of gross receipts of Rs.3,91,84.296/- as against the net profit of Rs. 5,25,726/- declared by the assessee. During the appellate proceedings, the ld. CIT(A) has upheld the order of the ld. AO in rejecting books of accounts. However, the ld. CIT(A) found the net profit rate of 3% adopted by the AO to be on the higher side. Accordingly, he reduced the income to 2.5% of the gross receipts. Before us, no other material was placed by the assessee to contradict the findings given by Ld CIT(A). Accordingly, we uphold the order passed by ld. CIT(A). Accordingly, we dismiss the appeal of the assessee on merits.

9. In ITA Nos. 79/Jodh/2020 pertaining to A.Y 2016-17 filed by Shri Rajendra Singh, the Bench noted that the facts and circumstances of the case are exactly identical to the facts and circumstances of the case in ITA

No. 80/Jodh/2020. Therefore, our decision given in the above said case shall apply *mutatis mutandis* to this appeal also.

10. In the result, both the appeals of the assesseees are dismissed.

Order pronounced on 13/03/2023.

Sd/-

Sd/-

(B. R. BASKARAN)  
ACCOUNTANT MEMBER

(Dr. S. SEETHALAKSHMI)  
JUDICIAL MEMBER

Dated : 13/03/2023

*\*Santosh*

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
6. Guard File

Assistant Registrar  
Jodhpur Bench