

IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. /ITA No.385/PUN/2023

निर्धारण वर्ष / Assessment Year : 2012-13

Murlidhar Ramgopalji Bhaiya, S.No.236, NA, Budhwar Ward, Malegaon – 423203 Maharashtra PAN : AADPB0304P	Vs.	ITO, Ward-1, Malegaon
Appellant		Respondent

Assessee by : Shri Pramod S. Shingte
Revenue by : Shri Suresh Gaikwad

Date of hearing : 15-05-2023
Date of pronouncement : 16-05-2023

आदेश / ORDER

PER R.S. SYAL, VP:

This appeal by the assessee arises out of the order dated 16-02-2023 passed by the CIT(A) in National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2012-13.

2. The only issue raised in this appeal is against the confirmation of addition of Rs.9,30,643/- made by the Assessing Officer (AO) by enhancing the GP rate.

3. Succinctly, the facts of the case are that the assessee is an individual engaged in the business of Manufacturing and Trading of Grey Cloth. Return was filed declaring total income at Rs.4,40,435/-. During the course of assessment proceedings, the AO observed that GP rate of 0.63% for this year was low as against the immediately preceding year's GP rate of 0.88%. He rejected the books of account on account of such fall in GP rate and applied the increased GP rate by 1.03%. No relief was allowed in the first appeal, against which the assessee has approached the Tribunal.

4. Having heard the rival submissions and gone through the relevant material on record, it is seen that the assessee has regularly maintained books of account, which is evident from the Audit report furnished before the Tribunal containing quantitative details of items. The AO has rejected the books of account simply on the ground that the GP rate was lower in the year under consideration. Such a course of action adopted by the AO cannot be countenanced. Mere fall or increase in the GP rate cannot be a reason to reject the books of account. Rather increasing the GP rate in assessment may be a consequence of a valid rejection of books of account not properly maintained. Here the position is

entirely contrary wherein the AO has rejected the books of account simply on the ground that the GP rate in this year was low. When I consider the amount of turnover during the year at Rs.23.26 crore *vis-à-vis* the preceding year's turnover at Rs.14.77 crore, it clearly emerges that there is an increase of around 50% of the turnover and the GP rate has declined marginally from 0.88% to 0.63%. I, therefore, overturn the impugned order and direct to delete the addition.

5. In the result, the appeal is allowed.

Order pronounced in the Open Court on 16th May, 2023.

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 16th May, 2023
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The Pr.CIT concerned
4. DR, ITAT, 'SMC' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	15-05-2023	Sr.PS
2.	Draft placed before author	16-05-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

*