

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'B' Bench, Hyderabad**

**Before Shri R.K. Panda, Vice-President**  
**AND**  
**Shri K. Narasimha Chary, Judicial Member**

ITA No.1671/Hyd/2018		
Assessment Year: 2014-15		
Agri Gold Foods & Farm Products Ltd, Hyderabad PAN:AABCA8733E	Vs.	Dy. C. I. T. Central Circle 2(4) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri M.V. Prasad, CA	
Revenue by:	Shri Jeevan Lal Lavidiya, CIT(DR)	
Date of hearing:	17/07/2023	
Date of pronouncement:	20/07/2023	

**ORDER**

**Per R.K. Panda, Vice-President**

This appeal filed by the assessee is directed against the order dated 16.2.2018 of the learned CIT (A)-12, Hyderabad relating to A.Y.2014-15.

2. This appeal was earlier dismissed by the Tribunal due to non-appearance. Subsequently, the Tribunal vide M.A. No.56/Hyd/2019 order dated 12.12.2019 recalled its order. Hence this is a recalled matter.

3. There is a delay of 113 days in filing of this appeal by the assessee for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such

delay. After considering the contents of the condonation petition filed along with the affidavit and after hearing the learned DR, the delay in filing of this appeal by the assessee is condoned and the appeal is admitted for adjudication.

4. Facts of the case, in brief, are that the assessee is a company engaged in the business of food processing and filed its return of income on 28.11.2014 declaring total income at Nil. The case was selected for scrutiny under CASS and statutory notices u/s 143(2) and 142(1) were issued to the assessee calling for certain information. However, there was no response from the side of the assessee for which the Assessing Officer completed the assessment u/s 144 r.w.s. 153C of the I.T. Act by estimating the income @ 15% of the turnover which worked out to Rs.48,06,64,892/-. Thus, the Assessing Officer completed the assessment on a total income of Rs.48,06,64,890/- as against "Nil" income.

5. In appeal, the learned CIT (A) dismissed the ground relating to validity of assessment u/s 153C. However, so far as the addition of Rs.48,06,64,892/- being 15% of the turnover is concerned, he directed the Assessing Officer to restrict the addition to Rs.50.00 lakhs and deleted the balance addition by observing as under:

*"6.4 I have carefully considered the submissions of the appellant, the order of the Assessing Officer, and the written submissions of the AR. The appellant is engaged in the business of manufacturing FMCG products like instant food mides, pickles, single spice powders and etc., and the Assessing Officer has made the impugned addition, by estimating the net profit of the appellant (@15% of turnover. The Assessing Officer has made the said addition considering the externalities Such as business activities of the assessee and observed that in the absence of necessary details for completion of assessment, the veracity of the expenditure claimed under the head income from business, was in doubt. No books of account and bill/vouchers etc., were*

*produced for verification during assessment proceedings. The assessee did not submit any information/documentary evidences in support of the expenses claimed. The contention of the appellant's AR is that the Assessing Officer is not correct in rejecting the books of accounts, without pointing out any specific defect therein, and that most of the expenses debited to Profit & Loss account are duly supported by supporting documents. It is seen that the Assessing Officer has gone on to estimate the net profit of the appellant @15%, without citing any comparable instances, and also, the books of accounts have been rejected, without pinpointing any specific defects. The rejection of the books of accounts therefore, is not proper. The assessee has also contended, in the Grounds of Appeal, that the Assessing Officer ought to have followed the assessments done u/s.143(3) in the assessee's own case for earlier assessment years. It is seen that in the case of appellant in earlier years .ie., A.Ys:2012-13 & 2013-14, "large other expenses were claimed in P & LA/c and this was in fact one of the reasons for the selection of case in CASS for A.Y:2013-14. The Assessing Officer had disallowed 10% of such expenditure at Rs.21,69,594 /-, observing that the expenses booked are huge and unverifiable. Similarly, in A.Y:2012-13, lumpsum addition was made by disallowing expenditure to an extent of Rs.25,00,000/, since the bills/vouchers furnished towards Sales Promotion expenses, General expenses, Office maintenance, Vehicle maintenance, Travelling expenses, were found to be self-made and were not maintained property. In the instant case, the books of accounts were nether produced during scrutiny proceedings nor during appellate proceedings. Therefore, following the pattern of the earlier years, it can be concluded that although books of accounts are maintained, many of the bills/vouchers are self-made and non-verifiable, and therefore, it cannot be denied that huge unverifiable expenses are being claimed by the assessee. Viewing the facts and circumstances of the case in entirety, and also looking to the nature of the business and quantum of the turnover, therefore, it would serve the ends of justice if a lumpsum disallowance of Rs.50,00,000/- is made, on account of improper maintenance of bills and vouchers etc., The Assessing Officer is therefore directed to restrict the addition made to Rs.50,00,000/-. The grounds related to this issue are PARTLY ALLOWED. In the result, the appeal of the appellant for the A.Y:2014-15 is PARTLY ALLOWED."*

6. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal by raising the following grounds:

*"1. The learned CIT (Appeals) erred in facts and law while passing the order.*

*2. On the facts and circumstances of the case learned CIT(Appeals) is unjustified in upholding the Assessment as no incriminating evidence was found which leads to issue of notice U/s 153C.*

*3. The Assessing Officer has issued notice U/s 153C of the Income Tax Act without having any incriminating material for the Assessment year under consideration or for any assessment year.*

*4. On the facts and in the circumstance of the case and in law, the learned CIT(Appeals) was unjustified in making lumpsum disallowance of expenditure on account of improper maintenance of bills and vouchers without rejecting the Books of accounts and pointing out any defects the Books.*

*5. The Appellant craves to leave, to add, to amend and/or to alter any of grounds of appeal, if need be. “*

7. The learned Counsel for the assessee submitted that the appeal filed by the Revenue was restored to the file of the Assessing Officer for fresh adjudication while deciding the bunch of appeals. However, the appeal filed by the assessee remained unadjudicated since the assessee could not bring it to the notice of the Bench regarding the filing of the appeal by the assessee. He accordingly requested that since substantial addition deleted by the CIT (A) has been restored to the file of the Assessing Officer, therefore, this appeal also should be restored to the file of the Assessing Officer for fresh adjudication.

8. The learned DR, on the other hand has no objection for restoration of this appeal to the file of the Assessing Officer for fresh adjudication.

9. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We find the Tribunal while deciding ITA No.762/Hyd/2018, dated 28.6.2023 filed by the Revenue for the A.Y 2014-15 has restored the issue to the file of the Assessing Officer by observing as under:

*“24. We have heard the rival arguments made by both sides and perused the record. We find the Assessing Officer in absence of any details furnished by the assessee before him estimated the business income @15% of the turnover of Rs. 320,44,32,614/-. We find the learned CIT (A) without calling for a remand report from the Assessing Officer and without giving any opportunity to the Assessing Officer restricted the disallowance to Rs.50.00 lakhs and deleted the remaining addition merely based on the arguments advanced by the assessee and the written submission filed before him. In our opinion, when the assessment was completed u/s 144 of the I.T. Act, the learned CIT (A) should have given an opportunity to the Assessing Officer either by calling for a remand report or by giving an opportunity to appear before her. However, the same has not been done. Considering the totality of the facts of the case and considering the fact and circumstances 13 of other group concerns, where the matter has been restored to the file of the Assessing Officer for fresh adjudication, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant an opportunity to the assessee to substantiate its case by filing the requisite details and decide the issue as per fact and law. The assessee is also hereby directed to appear before the Assessing Officer on the appointed date and file the requisite details without seeking any adjournment failing which the Assessing Officer is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the Revenue are accordingly allowed for statistical purposes.”*

10. Since the original assessment was completed u/s 144 of the I.T. Act and since the learned CIT (A) has given substantial relief for which the Tribunal has restored the issue to the file of the Assessing Officer on the appeal filed by the Revenue, therefore, considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue raised by the assessee in the grounds of appeal to the file of the Assessing Officer for fresh adjudication in the light of the order of the Tribunal against the appeal filed by the Revenue for this very A.Y. The grounds raised by the assessee are accordingly allowed for statistical purposes.

11. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 20<sup>th</sup> July, 2023.

Sd/-

Sd/-

<b>(K. NARASIMHA CHARY)</b> <b>JUDICIAL MEMBER</b>	<b>(R.K. PANDA)</b> <b>VICE-PRESIDENT</b>
---	--

Hyderabad, dated 20<sup>th</sup> July, 2023.

*Vinodan/sps*

Copy to:

S.No	Addresses
1	M/s. Agri Gold Foods & Farm Products Ltd, D. No.40-6-3, NSS Rao Street, Old Revenue Colony, Labbipet, Vijayawada-10
2	Dy.CIT, Central Circle 2(4) 6 <sup>th</sup> Floor, Aayakar Bhavan, Basheerbagh, Hyderabad 500029
3	Pr. CIT, Central, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*