

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,  
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No. 4707/DEL/2017 [A.Y. 2012-13]

M/s K.K. Fibers Pvt Ltd  
8-L, Model Town, Main Market  
Ludhiana, Punjab.

Vs.

The I.T.O  
Ward - 14(1)  
New Delhi

PAN: AACCK 7763 M

(Applicant)

(Respondent)

Assessee By : Shri Gaurav Jain, Adv  
Shri Sudharshan Ray, Adv

Department By : Shri Vivek Vardhan, Sr. DR

Date of Hearing : 18.07.2023  
Date of Pronouncement : 20.07.2023

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order of the  
ld. CIT(A) - 5, Delhi dated 08.05.2017 pertaining to Assessment Year  
2012-13.

2. The substantive grievance of the assessee is that the Id. CIT(A) erred in confirming the Net Profit rate @ 5.59% thereby confirming the addition of Rs. 4,69,30,975/-.

3. Briefly stated, the facts of the case are that the assessee company is engaged in the manufacturing of Polyester Staple Fibers and Non-Woven fabric. Return was filed on 29.09.2012 declaring an income of Rs. 5,40,940/-. Return was selected for scrutiny assessment and, accordingly, statutory notices were issued and served upon the assessee.

4. During the course of scrutiny assessment proceedings, the assessee was asked to furnish the following details:

- “a) Copy of Balance Sheet, Audit Report and accounts of Shiva Tex Fabs (P) Ltd. for A. Y. 2011-12 & 2012-13*
- b) Details of commission expenses, rebate, Discount and their justification.*
- c) Justification of fall in G.P. Ratio from 14.41% to 8.94% and why it should not be applied at 14.41%.*
- d. Details of shares transfer during the year.*
- e. Date of allotment of share to present shareholders.*

- f. Valuation of opening and closing stock with details of quantity and rate.*
- g. Annexures to 3CD Report. h. Justification of recovery shown with reference to preceding year. i. Monthly Excise Returns.*
- j. Monthly purchases, consumption, production and sales details [quantity wise and amount wise].*
- k. Books of accounts with bills, vouchers and bank statements.”*

5. On receiving no plausible reply, the Assessing Officer again asked the assessee to furnish details. The assessee submitted details which were perused by the Assessing Officer. On perusal, it was noticed that during A.Y 2011-12, total revenue from operation was Rs. 61,88,75,098/- resulting into NP of Rs. 3,46,08,700/- with N.P. ratio of 5.59%.

6. The Assessing Officer further found that in the impugned A.Y i.e. 2012-13, the revenue from operation was Rs. 91,05,19,558/- with N.P. of Rs. 39,37,068/- having N.P. rate of 0.43%. The assessee was asked to explain the sharp decline in the N.P. rate.

7. Once again, on receiving no plausible reply, the Assessing Officer recomputed N.P applying N.P. rate of A.Y 2011-12 at 5.59% and made addition of Rs. 4,69,30,975/-.

8. The assessee carried the matter before the ld. CIT(A) but without any success.

9. Before us, the ld. counsel for the assessee stated that the assessee had filed detailed explanation regarding decline in N.P. during the year under consideration alongwith copy of books of account and relevant details before the ld. CIT(A) which were remanded by the ld. CIT(A) to the Assessing Officer for his comments. It is the say of the ld. counsel for the assessee that in the remand report, the Assessing Officer has not pointed out any adverse observations regarding details furnished by the assessee alongwith reasons for decline in the N.P.

10. The ld. counsel for the assessee vehemently stated that the sole basis for making the impugned addition is the decline in profit when compared with the immediately preceding A.Y whereas in A.Y 2010-11, profit was much low in comparison to the profit for A.Y 2011-12 and yet no adverse inference was drawn. The ld. counsel for the assessee

stated that decline in profit is attributable to the increase of cost of consumption and finance cost.

11. Referring to the erroneous facts considered by the ld. CIT(A), the ld. counsel for the assessee stated that there were no cash deposits as observed by the ld. CIT(A). But, in fact, there were cash withdrawals which are evident from the copy of bank statements. The ld. counsel for the assessee concluded by saying that both the authorities below have erred in making the impugned addition based upon the ratio of A.Y 2011-12.

12. The ld. DR strongly supported the findings of the Assessing Officer and read the operative part of the order of the ld. CIT(A).

13. We have carefully perused the orders of the authorities below. There is no dispute that there was a sharp decline in N.P. rate for the year under consideration when compared with the profit rate of A.Y. 2011-12. It is also not in dispute that the profit rate for the year under consideration is in line with the profitability of A.Y 2010-11.

14. It is also a matter of fact that in the succeeding A.Ys 2013-14 and 2014-15, profit rate is lower. A perusal of the Profit and Loss Account shows that during the year, finance cost is Rs. 2,06,92,809/- whereas the same was Rs. 95,32,363/- in the immediately preceding A.Y. Sharp increase in finance cost is attributable to interest paid to banks on loans and over drafts which is Rs. 2,02,87,520/- for the year under consideration in comparison to Rs. 94,04,030/-.

15. The Id. CIT(A), at Para 4 of his order, has wrongly considered the bank rate qua the sanction letter as on 31.0.01.2013 which, on face, is erroneous in as much as the impugned A.Y is 2012-13. Copy of sanction letter issued by the Allahabad Bank in A.Y is 10.06.2010 and the prime lending rate for the year was 14.25%% to 15%.

16. Another reason for decline in N.P is the sharp increase in consumption of raw materials which is Rs. 79,77,04,918/- when compared to the immediately preceding A.Y Rs. 47,03,91,426/-. We find that the increase in sale price is not commensurate with the increase in cost of consumption due to substantial increase in the cost of raw material, being waste of plastic bottles, the availability of which was scarce. The ratio of cost of raw material consumed to

turnover for the year under consideration was 87.61% whereas it was 76.01% in the immediately preceding A.Y.

17. Though the Assessing Officer/ld. CIT(A) has compared the ratio with the immediately preceding A.Y and after completely ignoring the decline in the profit and closure of business in the subsequent A.Y. The N.P. ratio for A.Y 2013-14 is 0.32% which became loss of 0.73% in A.Y 2014-15, 19.57% in A.Y 2015-16, 86.70% in A.Y 2016-17 and finally the business was closed in A.Y 2018-19.

18. The assessment orders for A.Ys 2013-14 and 2014-15 are placed on record which assessments were made u/s 143(3) of the Act and loss was accepted as such. Considering the facts of the case in totality, we are of the considered view that the first appellate authority has grossly erred in not considering the reasons for decline in the N.P. in true perspective.

19. Trading account is quantified, books of account are audited. No error infirmity or defect has been pointed out. Therefore, the addition solely based on comparison with profit of immediately preceding A.Y, ignoring the profit of earlier years and subsequent A.Ys is uncalled for.

We, therefore, set aside the findings of the ld. CIT(A) and direct the Assessing Officer to delete the impugned addition.

20. In the result the appeal of the assessee in ITA No. 4707/DEL/2017 is allowed.

The order is pronounced in the open court on 20.07.2023.

Sd/-

**[ANUBHAV SHARMA]  
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 20<sup>th</sup> JULY, 2023.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	