

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 138/RPR/2022
निर्धारण वर्ष / Assessment Year : 2020-21

Sun & Sun Cold & Trade Pvt. Ltd.
11/146, Chikni Mandir, Malviya Road,
Raipur (C.G.)

PAN : AANCS4237K

.....अपीलार्थी / Appellant

बनाम / V/s.

The Assistant Commissioner of Income Tax,
Central Circle-(1), Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Smt. Ila M. Parmar, CIT-DR

सुनवाई की तारीख / Date of Hearing : 14.07.2023

घोषणा की तारीख / Date of Pronouncement : 02.08.2023

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee company is directed against the order passed by the CIT(Appeals)-3, Bhopal dated 22.06.2022, which in turn arises from the order passed by the A.O u/s. 143(3) of the Income-tax Act, 1961 (for short 'Act') dated 31.03.2022 for A.Y 2020-21. The assessee has assailed the impugned order on the following effective ground of appeal before us:

“1. In facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the addition to the extent of Rs.3,67,606/-,being net profit @23.03% on alleged unrecorded sales added by the A.O. The addition made by the A.O and confirmed by the Ld. CIT(A) is arbitrary, illegal and contrary to evidences on record.”

2. Survey proceedings were conducted on the assessee company u/s.133A of the Act on 08.04.2019. The survey team on a perusal of the records in the backdrop of the physical stock taking came across short/deficit stock of Rs.16,19,767/- on the date of survey, viz. (i). stock as per the books of account: Rs.2,17,05,666/-; and (ii). stock as per physical verification: Rs. 2,00,85,889/-.

3. During course of the assessment proceedings, the assessee on being called upon to put forth an explanation as regards the aforesaid short/deficit

stock of Rs.16,19,767/-, submitted that the same was for the reason that though certain delivery challans were issued on the date of survey but the corresponding sale bills were prepared later on. The A.O not finding any merit in the aforesaid explanation of the assessee company rejected the same and made an addition of the entire amount of unrecorded sales of Rs.16,19,767/- to its returned income. Accordingly, the A.O vide his order passed u/s 143(3) of the Act dated 31.03.2022 after, inter alia, making the aforesaid addition determined the income of the assessee company at Rs.2,76,13,471/-.

4. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals). On a perusal of the documentary evidence, the CIT(Appeals) observed that the assessee had though issued delivery challans of Rs.23,561/- on the date of survey but had prepared the corresponding sale bills on a later date, as under:

Stock items	Quantity sold	Challan No/date	Amount
Apple	03	1714/08.04.2019	8,034/-
	03	1716/08.04.2019	7,900/-
	01	1808/08.04.2019	2,527/-
Lemon	85kg	1892/08.04.2019	5,100/-
		Total	Rs.23,561/-

On the basis of his aforesaid observations the CIT(Appeals) scaled down the amount of the undisclosed sales to Rs.15,96,206/- [Rs.16,19,767/- (-) Rs.23,561/-]. Although the CIT(Appeals) did not find favour with the claim of the assessee company that it had on the date of survey issued delivery challans for the balance amount of unrecorded sales of Rs.15,96,206/- (supra), but at the same time concurred with it that addition with respect to short/deficit stock was liable to be restricted only to the extent of the profit which it would have made by carrying out the sales outside its books of accounts. Accordingly, the CIT(Appeals) adopted the net profit rate of 23.03% that was disclosed by the assessee company during the year and applied it to its unrecorded sales of Rs.15,96,206/- (supra) and sustained the addition to the tune of Rs. 3,67,606/-.

5. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before us.

6. We have heard the Ld. Authorized Representatives of both the parties, and perused the orders of the lower authorities as well as the material available on record.

7. Shri R.B Doshi, Ld. Authorized Representative (for short 'AR') for the assessee company explaining the reason that had led to the impugned short/deficit of stock of Rs.15.96 lacs (approx.), submitted that the same was for the reason that the assessee company had on the date of survey i.e.

on 08.04.2019 though issued delivery challans but had issued the corresponding sale bills on a later date. To sum up, it was the claim of the Ld. AR that the impugned short/deficit stock that had surfaced during the course of survey proceedings was due to non-accounting of sale transactions for which delivery challans had been issued on the date of survey. However, the Ld. AR on being queried as to why the assessee company had not come forth with its said explanation during the course of survey proceedings failed to come forth with any reply.

8. Per contra, Shri Choudhary N.C. Roy, Ld. Departmental Representative (for short 'DR') relied on the orders of the lower authorities.

9. We have given a thoughtful consideration to the aforesaid issue in hand, i.e. sustainability of the explanation of the assessee company as regards the short/deficit stock of Rs.15.96 lacs (supra). Considering the totality of the facts involved in the present appeal before us, we are unable to persuade ourselves to subscribe to the claim of the Ld. AR that the short/deficit stock that had surfaced during the course of survey proceedings was for the reason that the assessee company had though issued delivery challans for the sales that were carried out on the date of survey i.e on 18.04.2019 but the corresponding sale bills were issued and accounted for in its books of accounts on a later date. If that would have been so, then in our considered view the assessee company during the

course of survey proceedings would have surely come forth with the said explanation as regards the short/deficit stock that had so surfaced. However, no such explanation was given by the assessee company during the course of survey proceedings. Apart from that, the fact that the assessee company during the year had a total turnover of Rs.27.93 crore (approx.) i.e. an average sale of Rs.7.65 lacs per day in itself belies its claim of having issued delivery challans of Rs.15.96 lacs (supra) on the date of survey. Be that as it may, as the assessee company had neither before the lower authorities nor before us been able to substantiate on the basis of any supporting material its explanation as regards the short/deficit, therefore, the same cannot be subscribed on our part.

10. Apropos the alternative contention of the Ld. AR that now when the assessee company had accounted for the sale bills of Rs.15.96 lacs (supra) subsequent to the survey proceedings, and thus, had offered the profit on the same for tax, then the impugned addition of Rs. 3.67 lacs (supra) sustained by the CIT(Appeals) on the same amount of sales would lead to double taxation in the hands of the assessee company, we are afraid that the said unsubstantiated claim of the Ld. AR which is devoid and bereft of any supporting evidence cannot be summarily accepted on the very face of it. We, thus, in terms of our aforesaid observations finding no infirmity in the view taken by the CIT(Appeals), uphold his order. Thus, the ground of

appeal raised by the assessee is dismissed in terms of our aforesaid observations.

11. In the result, appeal of the assessee is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 2nd day of August, 2023.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 2nd August, 2023
SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-3, Bhopal
4. The Pr. CIT (Central), Bhopal
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुरबेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकरअपीलीयअधिकरण, रायपुर / ITAT, Raipur.