

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: E: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA No.182/Del/2021
Assessment Year: 2014-15

Mangal Superfine Garments P. Ltd., Plot No. 20, Shiv Vihar Colony, Bhatia Marg, Hastal Village, New Delhi 110059 PAN AAGCM 9473 Q	vs.	ITO, Ward 16(2), New Delhi 110002.
(Appellant)		(Respondent)

For Assessee:	None
For Revenue:	Ms. Smita Singh, Sr.DR

Date of Hearing :	19.07.2023
Date of Pronouncement :	03.08.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

This appeal has been filed against the order of Ld. CIT(A)-37, New Delhi dated 05.03.2020 for AY 2014-15.

2. The grounds have been raised of assessee are as follows:-

1. *That on the facts and circumstances of the case, the order passed by the learned CIT(A) confirming rejection of books of account us 145(3) of the Act by the AO and confirming addition to the extent of Rs 1,24,40,161/- by applying ad-hoc estimated NP @ 1.5% on sales declared by the appellant, is bad both in the eyes of law and on facts.*

2. *That on the facts and circumstances of the case, Ld. CIT(A) has erred both on facts and in law in confirming addition to the extent of Rs 1,24,40,161/- by applying ad-hoc estimated NP @ 1.5% on sales declared by the appellant by arbitrarily rejecting the historical and/or assessed net profit ratio of the appellant.*

3. When the appeal was called for hearing neither the assessee nor any authorized representative appeared nor any adjournment application has been filed despite several notices. However, on perusal of the appeal records and impugned order, we find that

the appeal can be disposed of ex-parte qua assessee after hearing the arguments of Id. Senior DR. Therefore we proceed to adjudicate the appeal ex-parte qua assessee.

4. As per orders of the authorities below and grounds raised by the assessee we note that the main contention of assessee is that on the facts and circumstances of the case, the order passed by the learned CIT(A) confirming rejection of books of account us 145(3) of the Act by the AO and confirming addition to the extent of Rs 1,24,40,161/- by applying ad-hoc estimated NP @ 1.5% on sales declared by the appellant, is bad both in the eyes of law and on facts. It has also been contended that on the facts and circumstances of the case, Id. CIT(A) has erred both on facts and in law in confirming addition to the extent of Rs 1,24,40,161/- by applying ad-hoc estimated NP @ 1.5% on sales declared by the appellant by arbitrarily rejecting the historical and/or assessed net profit ratio of the appellant. Therefore the final prayer of appellant is that the adhoc estimated NP @1.5% on the sales declared by the appellant is arbitrary, un-justified and unsustainable therefore the same may kindly be deleted.

5. Supporting action of the Assessing Officer the Id. Senior DR submitted that the Assessing Officer was quite correct and justified in estimating NP @3% as the main source of income of assessee is charging commission by providing hawala entries to the beneficiary in the form of bogus sale bills which was reduced by the Id. CIT(A) to 1.5% by giving part relief to the assessee and there is no requirement of further relaxation therein without any justified basis. Therefore appeal may kindly be dismissed.

6. On careful consideration of above submissions from the assessment order we note that the Assessing Officer made addition of NP by estimating 3% commission on total amount of entries given by the assessee. The Id. CIT(A) reduced the same to 1.5% of total value of sales bills by observing that generally in the line of providing accommodation entries the commission income charge ranges between 1 to 1.5% and he reduced the addition accordingly. Now aggrieved assessee being not satisfied by the part relief given by the Id. CIT(A) is again challenging the estimation of NP/commission @ 1.5% of total amount of sale bills without any proper representation. In our considered and humble view all possible leakage of revenue would be covered if the percentage of commission @1% a charged on the total amount of sale bills as the Id. CIT(A) himself noted at page 9 that the commission charged in the similar line of providing accommodation entries ranges between 1% to 1.5% and therefore Assessing Officer directed to recalculate the commission income @1% of total sales bills/turnover shown by the assessee. Assessee gets part relief and accordingly both the grounds of assessee are partly allowed.

7. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 03.08.2023.

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated: 03rd August, 2023.

NV/-

Copy forwarded to :

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

// By Order //

Asstt. Registrar, ITAT, New Delhi