

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, JODHPUR

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
ITA No. 271/JODH/2019

(A.Y: 2012-13)

M/s Chand Mal Arun Kumar Nawab Ganj, Nimbahera, Chittorgarh,-312601 Rajasthan.	Vs.	ITO – Ward-3 Chittorgarh, Rajasthan.
PAN/GIR No. AA AFC7970R		
Appellant	..	Respondent

Assessee by :	Shri Amit Kothari, CA
Revenue by :	Ms. Nidhi Nair, JCIT -DR

Date of Hearing	11.08.2023
Date of Pronouncement	14.08.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Appeals) – I, Udaipur passed u/s 143(3) and 250 of the Income Tax Act, 1961.

2. At the time of hearing the Ld. AR submitted that there is delay of 07 days in filing the appeal before the Tribunal. The Ld. AR has filed an affidavit for condonation of delay.

Whereas, the facts mentioned in the affidavit are reasonable and the Ld.DR has no specific objections. Accordingly, we condone the delay and admit the appeal. The assessee has raised the following grounds appeal:

1. The Ld. CIT(A) has erred in sustaining trading addition of Rs. 1 lakh on adhoc basis. The entire addition so made may kindly be deleted as is bad in law and bad on facts.

2. The Ld. CIT(A) has erred in sustaining disallowance of Rs. 45,961/- out of expenses.

3. The appellant crave liberty to add, amend, alter, modify any of the ground of appeal on or before its hearing before your honour.

3. The brief facts of the case are that the assessee is engaged in the business of trading of fertilizers and has filed the return of income for the A.Y 2012-13 on 30.09.2012 disclosing a total income of Rs.2,58,890/- and the return of income was processed u/s 143(1) of the Act. Subsequently the case was selected for scrutiny and notice u/s 143(2) and 142(1) of the Act along with questionnaire was issued. In compliance to the notice, the Ld. AR of the assessee appeared from time to time and submitted the

details and the case was discussed. The AO on perusal of the facts and information found that (i) the assessee has not properly disclosed the profit and the AO has rejected the books of accounts u/s 145(3) of the Act and estimated Gross Profit (GP) @1.80% based on the earlier years and applied to the present turnover and calculated gross profit of Rs.44,96,642/- and since the gross profit disclosed by the assessee for the present year is Rs. 29,45,079/-. Hence the A.O has made addition of differential GP of Rs.15,51,563/-. (ii) the AO found that the assessee has debited the bad debts in the profit and loss account and the assessee could not substantiated with the information and legal steps taken for recovery of the amount and therefore the A.O has disallowed the claim of Rs.70,000/- (iii) the assessee has debited VAT expenses of Rs.1,26,520/- and remained payable, hence the A.O has disallowed the claim.(iv) The assessee has debited shop expenses, telephone expenditure and vehicle expenditure since the assessee could not produce the complete details of vouchers, the AO has estimated the adhoc disallowance @ 20% which worked out to Rs.46,961/- and the A.O has assessed the total income of Rs. 20,53,930/- and passed the order u/s 143(3) of the Act dated 13.02.2015.

4. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the grounds of appeal, submissions of the assessee and findings of the AO . Whereas the CIT(A) has sustained the addition of GP to the extent of Rs. 1 lakh to cover up the possible leakages. And in respect of shop expenses, telephone expenditure and vehicle expenditure the CIT(A) has sustained the disallowance by the A.O. In other grounds of appeal, the CIT(A) has granted the relief and partly allowed the assessee appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal before the Honble Tribunal.

5. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in sustaining the addition in respect of GP to the extent of Rs,1,00,000/- on adhoc basis on the ground of leakages which is higher. The Ld. AR emphasized that most of the expenses are supported with the vouchers and the CIT(A) has not considered the facts the assessee is maintaining books of accounts and has sustained the adhoc estimated disallowance @20% i.e Rs.46,961/- made by the A.O. Further the Ld.AR substantiated the submissions with the factual paper book and written

submissions and prayed for allowing the assessee appeal. Contra, the Ld. DR relied on the order of the CIT(A).

6. We heard the rival submissions and perused the material on record. The Ld. AR submitted that the CIT(A) has erred in sustaining the G P addition to the extent of Rs. 1 lakh irrespective of facts that the assessee has been maintaining proper books of accounts and the gross profit rate is maintained regularly from the earlier years. We find that the CIT(A) having accepted the G P rate of earlier years and has granted partial relief but on the assumptions of probability of leakages has sustained the addition to the extent of Rs.1,00,000/-. We are of the opinion that there is no reasoning or basis was dealt in the CIT(A) order and considering the G P rate and nature of business operations of the assessee, we restrict the addition to the extent of Rs.50,000/-. On the second disputed issue, the A.O has not disputed the genuineness of the expenditure claimed and the utilization of expenses is wholly and exclusively for the purpose of business but due to non production of complete bills and vouchers has estimated the disallowance 20% i.e Rs.46,961/- We considering the overall facts, turnover and nature of business of the assessee and to meet the ends of justice direct the Assessing officer to

restrict the disallowance of above expenditure @ 10% and we partly allow the grounds of appeal of the assessee

7. In the result the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 14.08.2023.

Sd/-
(DR DIPAK P RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Jodhpur Dated 14.08.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. Concerned CIT
5. DR, ITAT, Jodhpur
6. Guard file.

//True Copy//

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आदेशानुसार/ BY ORDER,

(Asst. Registrar)
ITAT, Jodhpur