

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'SMC': NEW DELHI**

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.2094/DEL/2023
[Assessment Year: 2014-15]**

IPSO Foods Private Limited, E-58, Luna Street, Bidhan Nagar, Durgapur West Bengal-713212. PAN-AABC17759L	Vs	Asst. Commissioner of Income Tax- 12(2), Room No.409A, C.R. Building, New Delhi-110002
Assessee		Revenue

Assessee by	Sh. Udayan Das Gupta, Advocate
Revenue by	Sh. Om Prakash, Sr. DR

Date of Hearing	16.10.2023
Date of Pronouncement	18.10.2023

ORDER

This appeal by the assessee is directed against the order of National Faceless Appeal Centre, dated 22.05.2023 pertaining to Assessment Year 2014-15.

2. Grounds of appeal raised by the assessee reads as under:-

"1) For that on the facts of the case the Ld CIT (A) was not legally justified in sustaining the rejection of books by the AO u/s 145 of the Act 61, without pointing out any errors in the regular books of accounts, and without making out a case for rejection of book result, and the income (loss) in the instant case should be determined on the basis of regular books.

2) For that on the facts of the case the Ld. CIT (A) was not legally justified in sustaining the determination of total income by the AO at Rs. 12,17,853/-, on estimate 10% of total turnover, without considering the regular books of accounts, and ignoring the loss returned by the appellant at Rs. 68.65 lakhs, and the addition may please be deleted.

3) For that on the facts of the case the Ld, CIT (A) has erred in law in not considering the submissions of the appellant and the materials on record (the auditors certificate) and without affording proper opportunity to the appellant to explain his case, the principles of natural justice has been violated.."

3. At the outset, in this case, the Id. Counsel for the assessee submitted that the AO has rejected books of account as original tax audit report was incorrect. He submitted that to this effect, a certificate from Auditor was submitted to the AO but the AO proceeded to reject the books of accounts and passed order by estimating business income @ 10% of the turnover.

4. Against this order, the assessee appealed before the Ld. CIT(A), who confirmed the order of the AO.

5. Against the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal.

6. I have heard both the parties and perused the records. The Id. Counsel for the assessee prayed before me that an opportunity may be granted to the assessee to present its case and necessary documents and books of accounts before the AO. The Ld. DR did not have any objection to this proposition. Accordingly, in the interest of justice, I remit the issue to the file of the AO. The AO is directed to pass a fresh order after giving due opportunity of being heard to the assessee.

7. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 18th October, 2023.

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Delhi; 18.10.2023.
Shekhar,

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi