

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

(THROUGH VIRTUAL HEARING)

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

I.T.A. No.140/JBP/2023
Assessment Year: 2013-14

Shri Vashishth Prasad Pandey, Shop No. 31, Bilaunji, Behind Krishi Upaj Mandi, Waidhan, Singrauli. PAN:AJMPP4695D (Appellant)	Vs.	A.C.I.T., Satna. (Respondent)
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Appellant by	Shri Apurva Rajesh Mehta, C.A.
Respondent by	Shri Ravi Mehrotra, Jt. CIT, D.R.

ORDER

PER ANADEE NATH MISSHRA:A.M.

(A) Appeal vide I.T.A. No.140/JBP/2023 has been filed by the assessee for assessment year 2013-14 against impugned appellate order dated 11/09/2023 (DIN & Order No.ITBA/NFAC/S/250/2023-24/1055939707(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short]. The grounds of appeal are as under:

- "1. *On the facts and in the circumstances of the case and in law, the Ld. CIT (A), NaFAC has erred in passing Appellate Order dated 11.09.2023 without considering the submission dated 31.08.2023 and has further erred in stating that the appellant has not filed any submission in the course of appellate without appreciating that the appellant had uploaded the submission on the online income tax portal on 11.08.2023. Thus, the Order dated 11.09.2023 passed by the Ld. CIT(A), NaFAC is against the principle of natural justice and is liable to be quashed.*

2. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A), NaFAC has erred in upholding the action of the Ld. AO by upholding the rejection of books of accounts without appreciating that the Ld. AO has applied GP Rate of 6.5% without considering the past history and previous income tax returns filed by the assessee and profit rate of 6.5% is very high and unreasonable and the books of accounts have been rejected without any defect or deficiency in the audited books of accounts. Thus, the book results are liable to be accepted and the action of the Ld. AO and the Ld. CIT(A), NaFAC of rejecting the audited books of accounts is liable to be quashed."*

(B) In this case assessment order dated 30/03/2016 was passed u/s 143(3) of the Income Tax Act, 1961 ("IT Act" for short) wherein the assessee's total income was assessed at Rs.92,22,217/- (rounded off to Rs.92,22,220/-) as against returned income of Rs.55,14,250/-. The assessee filed appeal against the aforesaid assessment order in the office of National Faceless Appeal Centre (NFAC). Vide impugned appellate order dated 11/09/2023, the learned CIT(A) dismissed the assessee's appeal. While dismissing the assessee's appeal, the learned CIT(A) has observed that the appellant assessee had not made any submissions in the course of the appellate proceedings except furnishing copies of balance sheet and profit & loss account. The learned CIT(A) proceeded to dispose off the

assessee's appeal on the basis of details/documents/evidences etc. available on records. Present appeal in ITAT has been filed by the assessee against the aforesaid impugned appellate order dated 11/09/2023.

(C) At the time of hearing before us, the learned Authorised Representative ("A.R." for short) for the assessee submitted that the learned CIT(A) did not take cognizance of the written submissions and other details filed electronically on 31st August, 2023; and also that the learned CIT(A) wrongly observed that the appellant assessee had not made any submissions except furnishing of copies of balance sheet and profit & loss account. He drew our attention to the paper book filed from the assessee's side wherein the necessary evidence of having filed written submissions and other details during appellate proceedings before the learned CIT(A); has been mentioned. He further drew our attention to the paper book filed by the assessee, to establish the fact that the due date of submissions communicated to the appellant assessee from the office of learned CIT(A) was 31st August, 2023 and the fact that assessee had filed the aforesaid submissions and other details on 31st August, 2023 itself. Having regard to these facts and circumstances, representatives of both sides, learned A.R. for assessee as well as learned Sr. Departmental Representative for Revenue, were in agreement that the aforesaid appellate order dated 11/09/2023 may be set aside and the issues in dispute in the present appeal may be restored to the file of the learned CIT(A) for fresh order in accordance with law after taking the written submissions and other details filed by the assessee into consideration and after providing reasonable opportunity to the assessee.

(D) In view of the foregoing and as both sides are in agreement with this, we set aside the impugned appellate order dated 11/09/2023 of learned CIT(A) and we restore the issues in dispute in the present appeal before us to the file of learned CIT(A) for denovo order in accordance with law after providing reasonable opportunity to the assessee after giving due consideration to the submissions and other details filed by the assessee.

(E) In the result, the appeal is partly allowed for statistical purposes.

(Order pronounced in the open court on 21/12/2023)

Sd/.
(SUDHANSHU SRIVASTAVA)
Judicial Member

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Dated:21/12/2023
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT

4. D.R., I.T.A.T.,
5. CIT(A)

Assistant Registrar