

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANJUNATHA.G, ACCOUNTANT MEMBER

आयकर अपीलसं./ITA No.: 709/CHNY/2023

निर्धारण वर्ष/Assessment Year: 2015-16

M/s. B. Kanthilal Bafna & Co.,
No.58, Alangayam Road,
Tirupathur,
Vellore – 653 601.

The Asst. Commissioner of
Income Tax,
vs. Central Circle 2(3),
Chennai.

PAN: AAHFB 4032E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing

: 28.12.2023

घोषणा की तारीख/Date of Pronouncement

: 28.12.2023

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-16, Chennai in ITA No.145/CIT(A)-19/2016-17 dated 23.03.2023. The assessment order was framed by the Assistant Commissioner of Income Tax, Central Circle-2(3), Chennai for the assessment year 2015-16

u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 21.12.2016.

2. The only issue in this appeal is as regards to the order of CIT(A) confirming the action of AO in estimating the closing value not based on reasonable methodology or supporting evidence but purely on guess work. For this, assessee has raised following effective grounds:-

2. The learned Commissioner of Income Tax (Appeals)-16 ought to have seen that the AO's estimation of closing value is arbitrary and not based on reasonable methodology or supporting evidence leading to inaccurate determination of closing stock.

3. The learned Commissioner of Income Tax (Appeals)-16 ought to have seen that the AO exceeded his powers by disregarding the appellants chosen method of arriving at value of the closing stock inventory under AS-2 without justification or proper legal basis.

4. The Ld. Commissioner of Income Tax (Appeals)-16 ought to have seen that the appellant has arrived at value of the closing stock of inventory by following valuation of inventories as per AS-2 which is at the lower of cost and net realizable while the AO has estimated the value of closing stock which is not in accordance with the applicable accounting standards, specifically AS-2.

3. Brief facts are that the assessee firm is engaged in jewellery business and filed its return of income for the relevant assessment year 2015-16 on 30.09.2015 admitting a total income of Rs.3,87,54,300/-. A search u/s.132 of the Act was carried out on

the business and residential premises of the assessee on 30.10.2014. During the course of search, physical stock of gold and diamond jewellery and silver articles were inventorized. The statement of one of the partner Shri B. Ganeshmul was recorded during the course of search u/s.132(4) of the Act, wherein he admitted that the rate of jewellery i.e., valuation of gold jewellery is at the rate of Rs.1,500/- but the assessee before the AO contested this claim and stated that closing stock is to be valued at Rs.1,427/- per gram as against proposed by the AO at Rs.1,500/- per gram. The assessee filed details before the AO, which are reproduced in the assessment order at page 10 and the relevant reads as under:-

“In the assessment year 2015-16, the assessee has opted to arrive at the cost of the inventory by using Average Cost method and stop LIFO method to arrive at the same. Under, LIFO method the cost of the closing inventory of gold jewellery for AY 2015-16 is Rs.4,95,79,646/- as against the average cost method adopted which is Rs.8,57,42,320/-. The valuation of closing stock of gold jewellery as on 31.03.2015 under LIFO method is as below:

	<i>Quantity (in Gms)</i>	<i>Amount (in Rs.)</i>	<i>Rate Rs./ Gm.</i>
<i>Opening Stock (Closing stock of 2013-14, AY 14-15)</i>	<i>63003.180</i>	<i>51977624</i>	<i>825</i>
<i>Purchases during the year (2014-15, AY 2015-16)</i>	<i>31880.150</i>	<i>83396507</i>	<i>2616</i>
<i>Total</i>	<i>94883.330</i>	<i>135374131</i>	<i>1427</i>
<i>Sales for the year (2013-14, AY 2014-15)</i>	<i>34786.790</i>		
<i>Closing Stock as on 31.03.2015 (Since, the sales is more than the purchases for the year the closing</i>	<i>60096.540</i>	<i>49579646</i>	<i>825</i>

<i>stock comprises of only opening stock under LIFO method)</i>			
<i>Closing Stock as on 31.03.2015 (Cost of Inventory on the basis of Average Cost method)</i>	<i>60096.540</i>	<i>85742320</i>	<i>1427</i>

Thus, resulted in increase in profit by Rs.3,61,62,674/-. Thus the change is beneficial to the revenue and there is no loss of revenue to the department.”

But, the AO just simply taken the rate at Rs.1,500/- per gram and worked out the difference in closing stock at Rs.44,02,490/- by observing as under:-

“Keeping in view the above details, and after taking into consideration the prevailing market rate / and also the % of deduction towards purity of jewellery, the value of stock for admitting undisclosed income is determined at Rs.1,500/- per gram and the income is determined as below:

<i>Average cost method</i>			
<i>Closing Stock as on 31.03.2015 (Cost of Inventory on the basis of Average Cost method)</i>	<i>60096.540</i>	<i>85742320</i>	<i>1427</i>
<i>Valuation of gold jewellery reworked as below:</i>			
<i>Closing Stock as on 31.03.2015 (Cost of Inventory on the basis of Average Cost method)</i>	<i>60096.540</i>	<i>9,01,44,810</i>	<i>1500</i>
<i>Difference in valuation works out to</i>		<i>44,02,490</i>	

Keeping in view the above discussions, for valuation of gold jewellery, rate of Rs.1,500/- is adopted for valuing the Closing Stock of 60096.540 gms as on 31.03.2015 and the difference of Rs.44,02,490/- is added to the total income of M/s. Sri BKB Thangamaligai for the asst.year 2015-16.”

Aggrieved, assessee preferred appeal before CIT(A).

4. The CIT(A) simpliciter confirmed the action of the AO by stating that there is no proper stock register, two sets of methodology adopted by assessee i.e., one for gold and one for silver, which clearly establishes that the books of accounts maintained by the assessee are not reliable and he confirmed the addition made by the AO on account of difference in closing stock valuation. Aggrieved, assessee is in appeal before the Tribunal.

5. We have heard rival contentions and gone through the facts and circumstances of the case. First of all, the AO has not rejected the books of accounts, without pointing out any defect just went on estimation on the basis of value told by one of the partner in his statement at the rate of Rs.1,500/- per gram while deposing u/s.132(4) of the Act. We noted from the assessment order that the AO simpliciter estimated the valuation of closing stock on the basis of rate admitted by partner and not on the scientific basis of valuation given by the assessee. The assessee has give the cost of inventory on the scientific basis of Rs.1,427/- per gram. From the assessment order and the order of CIT(A), it is purely seen that estimation is made without resorting to rejection of books of accounts and moreover, just on estimate basis. Hence, we delete

the addition and reverse the orders of AO and that of the CIT(A) on this issue. Accordingly, the appeal of the assessee is allowed.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 28th December, 2023 at Chennai.

Sd/-

(मंजुनाथ. जी)

(MANJUNATHA.G)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 28th December, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|-------------------------|--------------------------|---------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त /CIT |
| 4. विभागीय प्रतिनिधि/DR | 5. गार्ड फाईल/GF. | |