

आयकरअपीलीयअधिकरण, 'ए', न्यायपीठ,चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' (SMC) BENCH : CHENNAI

श्रीमहावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकरअपीलसं./I.T.A.911/CHNY/2023
निर्धारणवर्ष/Assessment year : 2015-2016.

Shri. MarimuthuViswanathan,
103, SBI ATM Sathy Road,
Chithode Erode Taluk,
Erode 638 002.

Vs. The Income Tax Officer,
Ward 2(1)
Erode.

[PAN AGGPV 6939H]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by
प्रत्यर्थीकीओरसे /Respondent by

: Shri. S. Sridhar, Advocate
: Shri. Suresh Guduri, IRS, JCIT.

सुनवाईकीतारीख/Date of Hearing

: 03.01.2024

घोषणाकीतारीख /Date of Pronouncement

: 10.01.2024

आदेश/ ORDER

This appeal by assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1054015661 (1) dated 28.06.2023. The assessment was framed by the Income Tax Officer, Ward 2(1), Erode for the assessment year 2015-16, u/s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act'), vide order dated 24.11.2017.

2. The first issue in this appeal of assessee is against the order of the Id. CIT(A) confirming the action of the Id. Assessing Officer in making addition in gross profit instead of net profit. For this, assessee has raised ground No.4 which reads as under:-

“4) The Learned Commissioner of Income Tax (Appeals) erred in not adjudicating the Appellant's submissions pertaining to illegal addition based on Gross Profit instead of Net Profit, despite mechanically reproducing them in the Order”.

3. The brief facts of the case are that assessee is in the business of milk and milk products, curd etc., selling to small and medium size vendors and deriving commission income out of its business. Id. Assessing Officer noted that assessee turnover as per books of accounts and as per bank account there is difference of gross profit to the extent of ₹26,92,458/-. The Id. Assessing Officer accordingly after detailed verification of books of accounts and documents produced before him added the difference of gross profit of ₹26,92,458/- and assessee also agreed to this addition being the difference. Aggrieved, assessee carried this matter to the Id. CIT(A).

4. Assessee admitted that it had not included transaction mentioned in the bank account to the extent of ₹1,31,14,430/- which are sales

transaction and there is a difference in gross profit due to difference in turnover. The only argument before the Id. CIT(A) was that on this, difference in turnover of ₹1,31,14,430/- only net profit is to be assessed and not gross profit. According to the assessee, the net profit ratio is 3.01% and thereby addition could have been made to ₹5,39,402/- instead of ₹26,92,458/-. But the Id. CIT(A) not accepted the plea of the assessee and confirmed the action of the Assessing Officer. Aggrieved, now the assessee is in appeal before the Tribunal.

5. I have heard rival contentions and gone through facts and circumstances of the case. The only plea made before me by the Id. Counsel for the assessee is that addition is to be restricted on net profit and not on gross profit. When a query was put to Id. Counsel for the assessee how the books of accounts will match in case only net profit is added to the capital account, where balancing figure of ₹21,53,056/- (Gross profit ₹26,92,458/- (-) Net Profit ₹5,39,402/-) will go, Id. Counsel for the assessee could not reply. As the books of accounts will not match, the Id. Assessing Officer had rightly pointed out that in the book of accounts there is difference of gross profit and assessee also agreed during the course of hearing that there cannot be balancing figure unless and until gross profit is added. Hence, I find no infirmity in the orders of the Id. CIT(A) and that of Id. Assessing Officer and accordingly, this ground raised by the assessee is dismissed.

6. The next issue in this appeal of assessee is as regards to Id. CIT(A) confirming the action of the Id. Assessing Officer in making addition being capital introduced as on 01.04.2014. For this, assessee has raised ground No.5, which reads as under:-

‘5) The Learned Commissioner of Income Tax (Appeals), despite observing that the sum of Rs.9,00,000/- was introduced as Capital as soon as on 01.04.2014, sustained the addition without considering that the same represent earlier year savings and without assigning any reason for such sustenance’.

7. I have heard rival contentions and gone through facts and circumstances of the case. I noted that assessee only made submissions that opening capital introduced as on 01.04.2014 amounting to ₹9,00,000/- is out of earlier year savings and assessee could not file any details before the Id. Assessing Officer or before Id. CIT(A). However, Id. Counsel for the assessee requested for telescoping of this amount with that of the addition made in the gross profit cannot be accepted for a reason that capital introduced as on 01.04.2014 cannot be said to be earned by gross profit on the very first day of the year because gross profit is earned is spread over the full year and hence this plea of the assessee is also rejected and the order of the Id. CIT(A) is confirmed and this issue of the assessee is also dismissed.

8. In the result, the appeal of the assessee in ITA No.911/CHNY/2023 for assessment year 2015-2016 stands dismissed.

Order pronounced on 10th day of January, 2024, at Chennai.

Sd/-
(महावीरसिंह)
(MAHAVIR SINGH)
उपाध्यक्ष/VICE PRESIDENT

चेन्नई/Chennai

दिनांक/Dated: 10.01.2024.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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