

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.260/Ind/2023
Assessment Year: 2015-16

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|---|-----------------------------------|---|
| Siddhi Vinayak, 210, Dhan Trident, Satya Sai Square, Vijay Nagar, Indore. | <u>बनाम/</u> Vs. | Income-tax Officer, 3(1), Indore. |
| (Assessee/Appellant) | | (Revenue/Respondent) |
| PAN: ACCFS1664A | | |
| Assessee by | Shri Arpit Gaur, AR | |
| Revenue by | Shri Ashish Porwal, Sr. DR | |
| Date of final hearing | 22.04.2024 | |
| Date of Pronouncement | 30.04.2024 | |

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 13.02.2023 passed by learned Commissioner of Income-Tax (Appeals), NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 13.11.2017 passed by learned ITO, 3(1), Indore ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal on following grounds:

- "1. Assessee has not been provided sufficient opportunity of being heard in the said matter and has therefore been denied the principles of natural justice. Hence, the said order must be quashed.

2. The assessee is a partnership firm engaged in the business of wholesale trading of foodgrains, including pulses. The assessee filed its return of income u/s 139(1) of the Act for the impugned assessment year 2015-16 on 25.09.2015, declaring a total income of Rs. 1,66,710/-. The case of the assessee was selected for complete scrutiny under CASS on various reasons, including low profit from large gross receipts.

Total turnover of the firm for the year under consideration was to the tune of Rs. 31,40,27,375/-.

That Assessing Officer completed the assessment proceedings, vide order u/s 143(3) of the Act dated 13.11.2017, determining the total income of the assessee at Rs. 46,65,390/-

While doing so, the AO rejected the books of accounts and book results u/s 145(3) of the Act and estimated the profits of the business at the average rate of 2.0862 percentage of the total sales of Rs. 31,40,27,378/- without considering the fact that books of accounts of assessee firm were audited by a qualified chartered accountant. Audit Report in form 3CB & 3CD were duly signed by the Chartered Accountant alongwith profit and loss account and Balance Sheet. All these audited documents were filed at the time of filing return/during the course of assessment proceedings.

3. 1. That the Id. AO erred in adding Rs. 44,98,676/- by averaging out the G.P. % without considering nature & volatility of industry to which assessee belongs.
2. That the assessee is a partnership firm engaged in the business of wholesale trading of food grains, including pulses. The Industry to which assessee belongs is highly volatile in nature. The volatility of prices in the food grain industry is influenced by various factors. The fundamental principle of supply and demand plays a significant role in price volatility of good grain industry.
3. That, agricultural commodities including food grains, are highly sensitive to weather and climate conditions. Adverse weather events like extreme temperatures negatively affect crop production. Unpredictable weather patterns can lead to yield losses, reduced supply, and increased price volatility.
4. Also Government interventions such as import and export policies, subsidies, trade restrictions, and price controls, have a sufficient impact on food grain prices. Policies related to production incentives, storage facilities, and distribution networks also affect price stability in the industry. Changes in export or import regulations, trade disputes, and political instability in major grain-producing or grain-consuming countries affect market dynamics and price volatility.
5. That Ld. AO erred in rejecting books of accounts without considering the fact that the authenticity of the books is further appraised when the said books are being audited by Tax Auditors u/s 44AB of the Income-tax Act, 1961.
6. That as per CIT v. Margadarshi Chit Funds (P) Ltd., before rejection of books of accounts, the AO must record a clear finding that system of

accounting followed by an assessee cannot deduce correct profit or income. Where the accounts are consistently maintained on a basis that has been accepted in the past and there is no material to indicate how it was defective the AO cannot reject the books of accounts.

The AO erred in not considering to analyse various other parameters which have the effect on the gross profit rate of the assessee for the relevant period, before drawing any conclusion on the merits of such claim. That the assessee has maintained the books of accounts as prescribed u/s 145 of the Act.

7. That without bring out a clear infringement of any accounting standard, accounting principles or concrete and material evidences books of accounts cannot be rejected merely on the basis of some mere surmises, conjectures, suspicion, presumptions or assumptions. Reliance in this regard is placed on the decision in the case of CIT vs. J.J. Enterprises, (2002)122 Taxman 124 (SC) wherein the Hon'ble Supreme Court approving the decision of the lower authorities affirmed that the addition made on the basis of 'pure guess work' were unsustainable.
8. That no discrepancies other than minor defects were pointed out in the books of accounts and further that were regularly maintained and also there was no material brought on record to establish that purchases or expenses were inflated or sales suppressed and also in view of the finding that this was not a case that there was no method of regular accounting employed, therefore, the provisions of section 145(3) could not be invoked.
9. That the Id. AO erred in rejecting books of accounts of the assessee u/s 145(3) of the act without considering the fact that same were duly audited by a qualified Chartered Accountant.
10. The assessee also produced complete books of accounts and vouchers before the AO for verification. That issue relating to rejection of books of accounts u/s 145(3) of the Act is to be exercised only when the books are found incorrect or incomplete for determining the true and correct profits earned by the assessee. In the present case, the only basis for rejecting the books of accounts is minor discrepancies noticed in the vouchers and bills produced by assessee for verification even though explanation against each of such discrepancies were duly provided by assessee to AO."

2. The registry has informed that there is a delay of 89 days in filing this appeal, therefore the appeal is time-barred. Ld. AR for assessee submitted that the assessee has filed an application for condonation of delay supported by an affidavit. The assessee's application reads as under:

To,
The Income Tax Appellate Tribunal
Income Tax Department
Indore

Ref:- Siddhi Vinayak (PAN:- ACCFS1664A) AY 2015-16

Reg:- Condonation of delay in filing of appeal to ITAT.

Dear Sir

I am the partner of the firm engaged the business of wholesale trading of food grains, including pulses. An order was passed in my case of AY 2015-16 by the CIT(A). The demand raised and addition made for in the said order is not acceptable and I wish to file an appeal against the same. I am writing to seek condonation for the delay in filing an appeal before the Income Tax Appellate Tribunal in relation to the order dated 13th February 2023 having Order no. ITBA/NFAC/S/250/2022-23/1049717802(1). I regret to inform you that the delay in filing the appeal was due to an unforeseen change in our consultant, which caused a temporary disruption in our legal representation and administrative procedures.

We understand that timely filing of appeals is of utmost importance, and we deeply regret any inconvenience caused due to the delay. Our previous consultant, who had been handling the case, unfortunately had to discontinue his services abruptly due to personal reasons. This unexpected development led to a significant delay in engaging a new consultant to continue the legal proceedings. After the departure of our previous consultant, we initiated an immediate search for a qualified professional to take over the case and ensure its proper representation. The process of identifying and appointing a suitable consultant took longer than anticipated due to the complex nature of the case and the specialized expertise required.

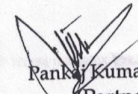
We understand the importance of adhering to the prescribed timelines and regulations set by the Income Tax Appellate Tribunal. However, the circumstances outlined above were beyond our control and resulted in an unintentional delay in filing the appeal. We assure you that we have taken all necessary steps to rectify the situation promptly and effectively.

Considering the extenuating circumstances and the importance of the case, we kindly request the Honorable Tribunal to condone the delay and grant us an opportunity to present our case before the esteemed Bench. We assure you that we are committed to upholding the principles of justice and diligently pursuing this matter.

Enclosed with this letter, you will find the duly filled Form No. 36 for the appeal, along with all the necessary supporting documents and fees, as required by the Tribunal. We sincerely apologize for any inconvenience caused due to the delay, and we are grateful for your understanding and consideration.

Thank you for your attention to this matter.

Place: Indore
Date: 12/07/2023


Rakesh Kumar Mishra
(Partner)

3. Referring to the contents of application, Ld. AR submitted that the assessee clearly acknowledges the utmost importance of filing appeal in time and also expresses deep regret for occurrence of delay in filing present appeal. The assessee further submits that the previous consultant who was handling assessee's matter discontinued his services abruptly due to his personal reasons and the assessee had to search a qualified professional to take over the case. The assessee also submits that the process of identifying and appointing a suitable consultant took longer than anticipated due to the complex nature of the case and the specialized expertise required. Therefore, the delay in filing appeal is not because of assessee's ulterior motive, negligence or lethargy. Relying upon provisions of section 253(5) of the Income Tax Act, 1961 which empowers the ITAT to admit an appeal after expiry of prescribed time if there is a "sufficient cause" for not presenting appeal within prescribed time and the decision of Hon'ble Supreme Court in **Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387**, Ld. AR prayed to condone the delay. Ld. DR for revenue was fair enough in not showing any serious objection against assessee's prayer. We find that section 253(5) of the Act allows the ITAT to admit a belated appeal in case of "sufficient cause". The Hon'ble Supreme Court in **Collector, Land Acquisition Vs Mst. Katiji** has stipulated following principles in the matter of condonation of delay and for that matter while looking into "sufficient cause":

".....The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice, that being the life-purpose for the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other Courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:-

- 1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
- 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
- 3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*
- 4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
- 5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.*
- 6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."*

Further, the courts are also having a liberal approach in handling condonation-applications. In present case, the assessee is claiming to have made delay in filing appeal because of sudden discontinuance of service by the previous counsel and search for a skilled professional to handle assessee's case. On perusal of case record, we find that there had been changes in assessee's counsel at lower-levels and before us. Hence, prima facie the assessee's explanation appears to have merit. Therefore, having regard to the guidance provided by Hon'ble Supreme Court, we are

persuaded to condone the delay, admit this appeal and proceed for hearing on merit.

4. The background facts leading to present appeal are such that the assessee is a partnership firm engaged in the wholesale trading of grain and pulses. For AY 2015-16, the assessee filed return declaring a turnover of Rs. 31,40,27,378/-, gross-profit of Rs. 20,52,563/- thereon giving rise to a gross-profit rate of 0.653% and total income of Rs. 1,66,710/-. The case was taken for scrutiny under CASS for certain reasons and one reason was 'low profit from large gross-receipts'. The notices u/s 143(2)/142(1) were issued and ultimately the assessment-order was passed u/s 143(3) wherein the AO rejected book results of assessee by invoking section 145(3), estimated gross-profit at Rs. 65,51,239/- by applying GP rate of 2.0862% as per assessee's own book-results of other years and thereby made an addition of Rs. 44,98,676/- on account of 'low gross-profit' [65,51,239 (-) 20,52,563]. Aggrieved, the assessee carried matter in first-appeal but did not get any relief. Now, the assessee has come before us in next appeal.

5. Before proceeding further, we may re-produce the relevant part of assessment-order passed by AO so as to gain an understanding as to why and how the AO made impugned addition. The AO has passed following order:

"3. The assessee firm is doing the business of Grain merchant and pulses and during the year under consideration assessee has shown the gross profit ratio @ 0.65 % of gross turnover. During the course of assessment proceedings assessee was asked to justify the low profit results and also to produce the

complete details of earlier three years GP ratio as declared. As per the details submitted the bank result for the years mentioned below are:

| Asst. Year | Total Sales Rs. | Purchases Rs. | G.P. | G.P. ratio % |
|------------|--------------------|------------------|------------------|-----------------|
| 2013-14 | 21265992 | 21086548 | 827483 | 3.891 |
| 2014-15 | 93442341 | 90241397 | 2267842 | 2.426 |
| 2015-16 | 314027378 | 316064710 | 2052563 | 0.653 |
| 2016-17 | 354257609 | 349092924 | 4871175 | 1.375 |
| | | | Average of above | 2.0862 |

Thus it is seen from the above that irrespective turnover and market conditions assessee firm is shown the book result for the year under consideration is very low gross profit ratio whereas in the earlier or subsequent year assessee has shown good amount of gross profit. In view of the above book results as shown for the year as mentioned above and considering the reason or selection assessee was asked to justify such low gross profit as shown. Assessee has not furnished any cogent reply. In these circumstances assessee was asked to produce the complete bill vouchers and ledger accounts for purchase, sales and expenses for verification. Assessee has produced the above required documents. The above bill vouchers and ledger accounts for purchase, sales and expenses was verified with the help of inspector of this office. On verification it was noticed that –

1. Complete books of accounts were not produced.
2. Assessee has produced cash voucher, but the same was not verifiable as the ass were produced any bill or ledger where it could be ascertained that for which purpose the cash payment were made.
3. During the verification of purchase and sale bills with ledger certain discrepancies found in purchase bills are –
 - (a) Bill number was not quoted or bill number was written with pencil even the other contents of the bills were written with pen.
 - (b) Date was not mentioned on bill.
 - (c) Bills were printed on plain paper without letter head or any seal of seller.
 - (d) Photocopy of bills was produced instead of original bill.
4. Assessee has not produced any sale bill for verification.

On test check it is noticed that on some bills there is not signature on the bill, some without bill numbered and printed on plain paper without any letter head or seal. Some of discrepancies are noted as detailed below:-

| Bill Date | Name of the biller | Bill Amount | Discrepancy found |
|------------|--------------------|-------------|-----------------------------------|
| 09.10.2014 | Sunil Shyam | 38226 | Date is not mentioned on the bill |

| | | | |
|------------|----------------------|---------|---|
| 04.04.2014 | Ramesh K.Mangilal | 23856 | Bill is printed on plain paper |
| 04.06.2014 | Agrozan India P.Ltd. | 1028130 | Photocopy of the bill is produced. |
| 02.04.2014 | Ankur Agro Pulses | 24668 | Bill is not available |
| 17.04.2014 | Vipul Corporation | 956119 | Bill is not available |
| 03.10.2014 | Madan Mohan Traders | 41496 | Bill is not available |
| 09.10.2014 | Ravi Foods | 29085 | Bill is not available |
| 10.12.2014 | Madan Mohan Traders | 37720 | Bill is not available |
| 05.10.2014 | Alok Food Grain | 34932 | Either no bill no. or written with pencil |
| 05.10.2014 | Alok Food Grain | 39010 | Either no bill no. or written with pencil |
| 09.10.2014 | Alok Food Grain | 22048 | Either no bill no. or written with pencil |
| 10.10.2014 | Ramesh K.Mangilal | 35432 | Either no bill no. or written with pencil |
| 10.10.2014 | Anjali Traders | 39200 | Either no bill no. or written with pencil |
| 10.10.2014 | Anjali Traders | 35733 | Either no bill no. or written with pencil |
| 10.10.2014 | Alok Food Grain | 35275 | Either no bill no. or written with pencil |

In view of the above observation the correctness of the purchases shown and the expenses claimed cannot be fully verified. This means no proper documents have been provided to the Auditor also. In the absence of any supporting evidence/documents the genuineness of these sales purchases and expenses cannot be verified. The books results are, therefore, rejected by invoking provision of section 145(3) of Income-tax Act, 1961. In the interest of justice, the average gross profit as computed above i.e. 2.0862 % are adopted. Thus the gross profit @ 2.0862 % on the total sales of Rs. 314027878 is worked out and assessed at Rs. 65,51,239/-. Since, assessee has already deducted the expenses, therefore, difference in gross profit declared and assessed at Rs. 4498676/- (Rs.6551239 – Rs. 2052563) is hereby added to the total income of the assessee."

6. Before us, Ld. AR raised following precise objections against AO's order:

(i) It is submitted that the AO has noted 15 instances of discrepancies in the purchases of assessee in a tabular format and thereby rejected assessee's gross-profit. But the discrepancies noted by AO are not warranted due to following reasons:

(a) Invoices of all 15 purchase-transactions were available with assessee and filed in Paper-Book at Page No. 48 to 62.

(b) Out of 15 instances, one major item is purchase of Rs. 10,28,130/- on 04.06.2014 from Agrozan India Pvt. Ltd. The discrepancy noted by AO is that the photocopy of purchase-bill was produced. But the assessee is having original bill. The original bill is produced in open court for perusal. Referring to Page No. 63-68 of Paper-Book, Ld. AR further showed that the assessee also filed Ledger A/c of the party to AO which itself shows that there was aggregate purchase of more than Rs. 11 Crore from that party during the year and all payments were made through banking channel. Therefore also, the AO should not have made adverse observation.

(c) Out of 15 instances, another major item is purchase of Rs. 9,56,119/- on 17.04.2014 from Vipul Corporation. The discrepancy noted by AO is such that the purchase-bill was not

available. But the assessee is having bill. Copy of bill is filed at Page 52 of Paper-Book and original bill is also produced in open court for perusal. Referring to Page 69 of Paper-Book, Ld. AR further showed that the assessee also filed Ledger A/c of the party to AO which itself shows that the purchase price of Rs. 9,56,119/- was paid through banking channel. Therefore also, the AO should not have made adverse observation.

(d) That, in some cases, the AO has noted *"Either no bill no. or written with pencil"* but the AO has overlooked that the parties are 'unregistered dealers'.

(ii) It is submitted that the books of account of assessee were duly audited and the auditors have not made any adverse remarks in audit report. Further, the auditors have reported quantitative details of all items traded by assessee in audit-report, copy at Page No. 33 of Paper-Book. Ld. AR also filed a sheet titled "Stock Summary" extracted from books of assessee giving quantity details as well as values of opening stock, purchases (inwards), sales (outwards) and closing stock of each item traded by assessee. Ld. AR submitted that the AO has not disputed these details of assessee and still rejected books of assessee which is not correct. Ld. AR further submitted that there is no deviation in the method of accounting or the manner in which accounts have been maintained by assessee from other years. Therefore, in such a case, the AO cannot reject book-results of

assessee and cannot make any addition as held in ***CIT Vs. Anand Kumar Modi (2014) 44 taxmann.com 21 (Jharkhand)***.

(iii) It is further submitted that the assessee is engaged in the business of agricultural commodities where the market remains highly volatile giving rise to fluctuations in profit but the AO has ignored this very nature of assessee's business.

7. Per contra, Ld. DR for revenue referred the detailed observations made by AO in assessment-order and claimed that the AO has firstly made substantial findings qua the defects found in assessee's books of account during scrutiny conducted by him with the assistance of departmental inspector. Thereafter, the AO has noted 15 instances for illustrative purpose. Finally, the AO has taken a reasoned view to reject books of assessee u/s 145(3) in the concluding para. Ld. DR submitted that the AO's analysis is cogent and must be upheld. He relied upon AO's order as well as CIT(A)'s order approving the action of AO.

8. We have considered rival contentions of both sides and perused the orders of lower-authorities as well as the material held on record to which our attention has been drawn. On a careful consideration, we find that one of the reasons for selection of assessee's case under scrutiny was '*low profit from large gross receipts*'. Then, the AO has noted that the bills, vouchers and ledger accounts for purchase, sales and expenses were verified with the

help of departmental inspector and on verification discrepancies were found.

The AO has summarized discrepancies as under:

1. *Complete books of accounts were not produced.*
2. *Assessee has produced cash voucher, but the same was not verifiable as the ass were produced any bill or ledger where it could be ascertained that for which purpose the cash payment were made.*
3. *During the verification of purchase and sale bills with ledger certain discrepancies found in purchase bills are –*
 - (a) Bill number was not quoted or bill number was written with pencil even the other contents of the bills were written with pen.*
 - (b) Date was not mentioned on bill.*
 - (c) Bills were printed on plain paper without letter head or any seal of seller.*
 - (d) Photocopy of bills was produced instead of original bill.*
4. *Assessee has not produced any sale bill for verification.*

Thus, the AO has noted multiple discrepancies relevant for gross-profit, namely (i) complete books were not produced, (ii) there were discrepancies in purchase-bills, and (iii) sales-bills were not produced. Thereafter, the AO has noted 15 instances quoting them as 'some of discrepancies'. Out of those 15 instances, Ld. AR has made particular submission about two instances i.e. purchase from M/s Agrozan India Pvt. Ltd. and M/s Vipul Corporation. Regarding M/s Agrozan India Pvt. Ltd., the AO noted that photocopy of bill was produced. The assessee's submission before CIT(A) was *"Original bills were presented in the file except bill of Agrozon India Pvt. Ltd., however assessing officer failed to appreciate the fact that duplicate bill may also called by party if opportunity provided at the time of verification"*. This very submission of assessee before CIT(A) fortifies correctness of AO's noting in assessment-order that the photocopy of bill was only filed. Be that

as it may, the original bill of M/s Agrozon India Pvt. Ltd. and M/s Vipul Corporation are available before Bench during hearing. However, there are still certain instances where the AO has noted *“Either no bill no. or written with pencil”* for which the assessee’s submission before CIT(A) was *“Small traders of food grains are not required to register under local sales tax laws, hence there is no specific provision for printed bill. However, bill was signed by authorized signatory of firm”*. Before us also, Ld. AR has repeated the same submission that the parties are unregistered dealers. This submission by assessee does not appeal to us. We are not able to understand that if the parties were unregistered dealers, how could the bill numbers be not mentioned or they would be written with pencil? Needless to mention that the 15 instances are just exemplary and the AO has noted broader discrepancies about (i) non-production of complete books, (ii) discrepancies in purchase-bills, and (iii) non-production of sales-bills. The AO has categorically noted that these discrepancies were noticed on verification *“with the help of inspector of this office”*. Thus, the AO’s notings are forceful, as well as meritorious and cannot be said to be vague or baseless. Faced with this situation, we are of the view that the AO was justified in invoking section 145(3) due to discrepancies in assessee’s books and therefore rejecting book-results. The decisions relied by Ld. AR are distinguishable and do not help assessee due to specific facts of assessee’s case.

9. Once it is found that the rejection of books or book-results was justified, the next question would be whether the AO was correct in

estimating gross-profit at Rs. 65,51,239/- in place of Rs. 20,52,563/- declared by assessee. The AO has given details of Sales, Gross-Profit and GP Ratio % of preceding two AYs 2013-14 & 2014-15, current AY 2015-16 and subsequent AY 2016-17 of assessee himself in a table in assessment-order which is re-produced in earlier para of this order. Taking into account those data, the AO has computed 'average GP rate' of these 4 years at 2.0862% and thereby estimated gross-profit at Rs. 65,51,239/-. However, on a deep analysis of figures, we find some mistake in AO's approach in applying GP rate of 2.0862%. We find that the AO has computed average GP rate of 2.0862% taking into account three components, namely (i) GP rates of 3.891% and 2.426% in preceding 2 years, (ii) GP rate of 0.653% in current year, and (iii) GP Rate of 1.375% in subsequent year. So far as GP rates of preceding 2 years is concerned, the turnover of those years were only Rs. 2,12,65,992/- and Rs. 9,34,42,341/- which are not comparable with the whopping turnover of Rs. 31,40,27,378/- of current year. It is a generally acceptable phenomenon that as the turnover increases, the profitability comes down. Therefore, the GP rates of preceding years are not considerable. Then, there is no justification in considering the GP rate of current year when the same is already rejected by AO. However, the turnover of subsequent AY 2016-17 is Rs. 35,42,57,609/- which is very near to the turnover of Rs. 31,40,27,378/- of current year. Therefore, the GP rate of 1.375% declared by assessee himself in subsequent AY 2016-17 could be taken as a better yardstick. The adoption of GP rate of subsequent year by

us is based on specific facts and figures of present case available on record and should not be followed as a precedent. Accordingly, we find that Gross-Profit of current year may be taken at 1.375% of Rs. 31,40,27,378/- which comes to Rs. 43,17,876/-. This would mean that the AO's estimation at Rs. 65,51,239/- needs to be restricted to Rs. 43,17,876/-. This would result in giving a relief of Rs. 22,33,363/- to assessee and at the same time upholding excess addition of Rs. 22,65,313/-. Needless to mention that the relief of Rs. 22,33,363/- would also be more than the specific purchases of Rs. 10,28,130/- from Agrozen India Pvt. Ltd. (+) Rs. 9,56,119/- from M/s Vipul Corporation for which the original bills are produced by Ld. AR in open court. We direct the AO to modify assessment-order accordingly. The assessee succeeds partly in this appeal.

10. Resultantly, this appeal is partly allowed.

Order pronounced in open court on 30.04.2024.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER
Indore
दिनांक /Dated : 30.04.2024.
CPU/Sr. PS

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore