

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No. 779/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shivam Smeleters (P) Ltd Hyderabad PAN:AAICS1253Q (Appellant)	Vs.	Income Tax Officer Ward 3(1) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:	C.A Ghanshyamlal Upadhyay	
राजस्व द्वारा/Revenue by::	Shri S.P.G. Mudaliar, DR	
सुनवाई की तारीख/Date of hearing:	05/09/2024	
घोषणा की तारीख/Pronouncement:	05/09/2024	

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 18/06/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2015-16.

2. The brief facts of the case are that the assessee company is engaged in the business of manufacturing of steel TMT bars, angles, rods etc., filed its return of income for the A.Y 2014-15 on 30.09.2015 declaring total loss of Rs.8,18,83,914/-. The case was selected for scrutiny and during the course of

assessment proceedings, the Assessing Officer noticed that the assessee has debited various expenses into P&L including excise duty payment of expenses under the head direct expenses, C&F expenses and freight and forwarding expenses, however not filed any evidences to justify the said expenses. The Assessing Officer further noted that the appellant has not furnished the relevant books of account and other bills & vouchers in support of financial statement. Therefore, rejected the books of account of the assessee and by taking note of net profit declared by the assessee for the immediately preceding A.Y which was at 0.7% of the total turnover, has estimated income from business on total turnover of Rs.47,71,14,436/- @ 0.7% which comes to Rs.33,39,800/- and assessed the total income at Rs.37,97,930/-.

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A) the assessee challenged the rejection of books of account and estimation of net profit on total turnover @ 0.7% on the basis of net profit declared by the assessee for the immediately preceding financial year. The learned CIT (A) after considering the relevant facts and also taking note of the reasons given by the Assessing Officer to reject the books of account has upheld the estimation of net profit on total turnover.

4. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that the learned CIT (A) is erred in upholding the estimation of net profit of 0.7% on total turnover, ignoring evidences filed by the assessee to justify the financial results declared for the relevant A.Y. The learned Counsel for the assessee further submitted that the appellant has filed all evidences before the learned CIT (A). The learned CIT (A) has called for remand report from the Assessing Officer. However, before the Assessing Officer submits his remand report, the learned CIT (A) has disposed off appeal filed by the assessee. Therefore, he submitted that the additions made by the Assessing Officer should be deleted or alternatively, the matter may be remanded back to the file of the learned CIT (A) for fresh consideration.

6. The learned DR, supporting the orders of the learned CIT (A) submitted that before the Assessing Officer the assessee has agreed for estimation of 0.7% net profit on total turnover which is evident from the assessment record where the Assessing Officer in the order sheet note on 24.11.2017 recorded admission of the assessee. The learned DR further submitted that it is a matter on record although the learned CIT (A) has called for remand report from the Assessing Officer vide letter dated

16/08/2018, but before the Assessing Officer submits his remand report, the appeal has been disposed off. Therefore, he submitted that the issue may be decided as per law.

7. I have heard both the parties, perused the material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the learned CIT (A) has called for remand report from the Assessing Officer on additional evidences filed by the assessee during the appellate proceedings which is evident from the letter written by the learned CIT (A) to the Dy. CIT, Circle 3(1) on 16/08/2018. It is also an admitted fact that the learned CIT (A) disposed off appeal filed by the ass before the Assessing Officer submits his remand report. In my considered view, the learned CIT (A) while disposing of the appeal filed by the assessee should either consider the evidences filed by the assessee or consider the remand report of the Assessing Officer when he himself called for remand report from the Assessing Officer. Since the learned CIT (A) dismissed the appeal filed by the assessee before the Assessing Officer submitted his remand report, in my considered view, the matter needs to go back to the file of the learned CIT (A). Thus, I set aside the order of the learned CIT (A) and restored the issue back to the file of the learned CIT (A) for fresh consideration. The learned CIT (A) is directed to consider the issue after obtaining necessary

remand report from the Assessing Officer on additional evidences filed by the assessee.

8. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 5th September, 2024.

Sd/-

**(MANJUNATHA, G.)
ACCOUNTANT MEMBER**

Hyderabad, dated 5th September, 2024.

Vinodan/sps

Copy to:

S.No	Addresses
1	Shivam Smelters (P) Ltd, 16-7-302, Erram Cottage, Chadarghat, Azampura, Hyderabad 500082
2	Income Tax Officer Ward 3(1) Signature Towers, Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order