

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.531/Ahd/2024  
(Assessment Year: 2018-19)

Income Tax Officer, Ward-1(2)(1), Ahmedabad	Vs.	Chhaganlal Dalaji Soni, 49/1, Soni Ni Khadki, Opp. Sankdi Sheri, Maneckchowk, Gujarat-380001
<b>[PAN No.AKPPS2691N]</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Milin Shah, A.R.
<b>Respondent by:</b>	Shri B.P. Srivastava, Sr. DR

<b>Date of Hearing</b>	19.09.2024
<b>Date of Pronouncement</b>	25.09.2024

**ORDER**

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Department against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 23.01.2024 for Assessment Year 2018-19.

2. The Department has taken the following grounds of appeal:-

“1. Whether the CIT(A) has justified in law and on facts in deleting addition of Rs.1,82,10,500/- made on account of law G.P. without considering the facts of the case?

2. The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.

3. It is, therefore, prayed that the order of Ld. CIT(A) may be set aside and that of the Assessing Officer be restored.”

3. The brief facts of the case are that the assessee is a dealer in gold and bullion. During the course of assessment proceedings, AO took into cognizance the suspicious cash transactions carried out by the assessee during the assessment year. The Ld. AO observed that on a turnover of Rs. 217.27 Cr., the assessee was showing a Gross Profit of Rs.35,17,239/- which was nearly only 2%. Further, there were irregular cash deposits which were recorded in fractions in books of accounts while the cheque payments were rounded off to the nearest numbers. This indicated adjustment by the assessee. Also, significant cash sales were made by the assessee before GST was implemented to escape the same while the cash sales were minimal after the onset of GST regime. The Ld. AO postulated that the assessee had indulged in providing accommodation entries. In respect of trend of sales, no cash sales above Rs.2,00,000/- were recorded in the books of accounts to escape the provisions of TCS. The Ld. AO went on to reject the books of accounts of the assessee and made an addition of Rs.1,82,10,500/- by readjusting the GP rate of the assessee at 1% of total turnover.

4. In appeal before Ld. CIT(Appeals), the assessee submitted a detailed Gold and Silver Bullion purchase register for the period from July 1, 2017, to March 31, 2018, along with written submissions that reiterated previous arguments made before the Assessing Officer (AO). The assessee provided comprehensive documentation, including vouchers, audit reports, books of accounts, and bank statements. The submissions of the assessee emphasized that the source of cash came from sales that were deposited into bank accounts, either in cash or via RTGS. The assessee's audited books of accounts included complete quantitative details of sales and purchases, and cash sales were supported by appropriate documentary evidence, demonstrating that the figures

were indeed corroborated by quantifiable details. All transactions were conducted through banking channels, and the assessee maintained a meticulous day-to-day stock register. Importantly, the AO did not question the accuracy of stock changes or highlight any discrepancies in the audit report. The assessee had accurately recorded all sales in their books of accounts, including cash sales below Rs. 2 lakh, for which the assessee was not under an obligation to collect a PAN from customers. The AO did not present any specific instances of non-compliance regarding the Tax Collection at Source (TCS) provisions. Additionally, the gross profit (GP) and net profit (NP) ratios reflected consistent performance with prior years, indicating no significant discrepancies. On going through the facts of the case and the submissions of the assessee during the course of appellate proceedings, Ld. CIT(Appeals) observed that the analysis revealed that there was no sudden spike in cash sales or bank deposits, and the balance sheet along with the profit and loss account suggested sufficient stock levels to support cash sales. The books of accounts were maintained as per normal business practices without any flaws identified by the AO. Historical scrutiny assessments had previously accepted the assessee's book results. The AO's assessment relied heavily on assumptions regarding cash sales and deposits, particularly those prior to GST implementation, without conducting thorough inquiries into alleged discrepancies. The assessee had provided all necessary information to demonstrate compliance, shifting the burden back to the AO to disprove these claims substantively. Ld. CIT(Appeals) observed that as per the legal precedents on the subject, low gross profit ratios alone cannot justify income additions. The AO failed to present a rational basis or comparable cases that would demonstrate that the assessee's declared profits were unreasonably low for similar businesses. Ld. CIT(Appeals) observed that Courts have

consistently ruled that properly maintained and audited accounts should be accepted unless clear evidence suggests otherwise. Accordingly, in light of the above facts and the judicial precedents on the subject, Ld. CIT(Appeals) deleted the addition of Rs. 1,82,10,500/- made by the AO and the appeal of the assessee was allowed.

5. The Department is in appeal against the aforesaid order passed by Ld. CIT(Appeals), allowing the appeal of the assessee. Before us, the DR placed reliance on the observations made by the assessing officer in the assessment order. In response, the counsel for the assessee submitted that he is a genuine merchant who has diligently collected and paid Goods and Services Tax (GST) on all sales, including cash transactions, while adhering to both Direct and Indirect Tax laws. The Ld. Counsel for the assessee clarified that many small retail buyers approach the assessee seeking small quantities of bullion for cash purchases, deliberately avoiding transactions that would require Tax Collection at Source (TCS) by not providing their Permanent Account Number (PAN) details. The Ld. Counsel for the assessee submitted that the assessee is not legally obligated to compel customers to provide PAN information, which aligns with Income Tax Law. The Counsel for the assessee pointed out that the allegations made against the assessee are based on mere assumptions, as there is no adverse information presented by the Assessing Officer during the course of assessment proceedings. The Counsel for the assessee explained that the assessee collects cash from various customers and deposits it into his bank account at the end of each day or the following day, and subsequently using those funds to make purchases from his creditors. The assessee maintains a cash balance from previous days, which was duly taken into consideration when assessing his cash flow, by Ld. CIT(Appeals). The Counsel for the

assessee for the assessee submitted that all of his transactions are well-documented, with proper records maintained for purchases, sales, and stock. He further submitted that his creditors are reputable businesses that have been under audit for over a decade, reinforcing the legitimacy of his operations. The majority of his payments are conducted through bank transfers, and the assessee has not engaged with any parties outside the scope of his business or make cash payments unrelated to his business activities. Acknowledging the volatility in bullion prices, the Counsel for the assessee submitted that there are inherent risks in his business, including instances of losses incurred during the relevant year. The Counsel for the assessee further clarified that even minor discrepancies, such as billing for milligrams of bullion, are critical to the profitability of the assessee, as ignoring such small quantities could result in significant financial losses. The Counsel for the assessee submitted that the assessee had provided a historical overview of his gross profit (GP) ratios from previous assessment years before Ld. CIT(Appeals), showcasing that the assessee's business performance is consistent and justifiable based on audited financial statements, which was duly considered by Ld. CIT(Appeals) while allowing the appeal of the assessee. The Counsel for the assessee submitted that all records have been properly maintained and audited without any qualifications. Given that turnover of the assessee is accepted to be undisputed by the Department, the Counsel for the assessee argued that the gross profit reported in his audited financial statements accurately reflects his business operations, thus negating the need for any additions to his income. It was submitted that the assessee maintained comprehensive documentation and consistent audit results which validated the reliability of his books of accounts of the assessee, rendering any rejection under Section 145(3) of the Income Tax Act unwarranted.

6. We have heard the rival contentions and perused the material on record. On going to the facts of the instant case, we are of the considered view that Ld. CIT(Appeals) has not erred in facts and in law in allowing the appeal of the assessee. Ld. CIT(Appeals), in our view has correctly observed that the book results placed on record by the assessee such as GP/NP ratio were in the same line as the previous years and there was no discrepancy therein. Further, it is also not a case where there was a sudden increase in the cash sales or of cash deposits in the bank account of the assessee. From the balance sheet as well in the profit and loss account of the assessee, it was evident that there was sufficient stock available with the assessee to make cash sales. The regular books of accounts were maintained in normal course of business by the assessee, in which no flaw or deficiency was pointed out by the assessing officer. Therefore, once the assessing officer accepts the books of accounts there is no case for making GP addition. Further, Ld. CIT(Appeals) also observed that the earlier assessing officer accepted the book results during the course of scrutiny proceedings under section 143 (3) of the Act, for assessment years 2013-14 and 2017-18. In the case of **CIT vs. Aero Club 197 Taxman 58 (Delhi)**, the High Court held that profit margins of a taxpayer as declared by him can be varied and disturbed only if profit margins in case of other assessee engaged in similar business are higher. Since the Assessing Officer had not brought on record any comparable case wherein net profit declared by a taxpayer in similar business was higher than one declared by assessee, profit as declared by assessee could not be disturbed and best judgment assessment made by Assessing Officer was liable to be set aside. In this case, High Court made the following observations:

*It is well-settled that while making the best judgment assessment, the Assessing Officer should do so on a rational basis and without any bias. [Para 18]*

*Thus, even assuming for the sake of argument that the assessee's profit and loss account was rightly discarded by the Assessing Officer, it was found that a rational basis was not adopted by the Assessing Officer. The Commissioner (Appeals) and the Tribunal rightly set aside the best judgment assessment of the Assessing Officer on the ground that the Assessing Officer had not brought on record any comparable case wherein the net profit declared by a taxpayer in the similar business was higher than the one declared by the assessee. The profit margins of a taxpayer as declared by him can be varied and disturbed only if the profit margins in the case of other assessee engaged in similar business are higher. In the instant case, the assessee had brought on record evidence that in the case of a company having similar business, the declared profits were, in fact, lower than the profits declared by the assessee. The Assessing Officer, in his remand report, was also unable to comment on the comparable cases relied upon by the assessee. In the circumstances, the Tribunal rightly held that the net profit as declared by the assessee was not required to be disturbed. [Para 21]*

7. In the case of **ITO vs. Sai International31 taxmann.com 346 (Delhi - Trib.)**, the Tribunal held that when assessing Officer could not point out any defect in details filed by assessee, addition made on account of low gross profit ratio could not be sustained.

8. In the case of **ACIT vs. Chandra Surana 149 taxmann.com 379 (Jaipur-Trib.)**, the Assessee was engaged in business of sale of gold jewellery and ornaments. The Assessing Officer completed assessment of assessee by making certain addition by holding that certain amount of cash deposited by assessee in his bank account during demonetization period was nothing but undisclosed income of assessee which was under garb of cash sales. He therefore, held that cash deposited was liable to be added under section 68 and taxable @60% under provision of section 115BBE. On appeal, Commissioner (Appeals) deleted addition. Ld. CIT(Appeals) found from records that assessee had maintained regular books of account, bills, vouchers and day-to-day stock register having complete quantitative details of cash sale transactions of jewellery and cash sales and receipts were duly supported by relevant bills which were produced in course of assessment proceedings and sales were

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made out of stock-in-trade. In appeal, Tribunal held all such scenario indicated that assessee had duly substantiated its claim from documentary evidences and also with facts. Further, provisions of section 68 would not be applicable on sale transactions recorded in books of account as sales were already part of income which was already credited in P&L account. Therefore, there was no occasion to consider same as income of assessee by invoking provisions of section 68 and addition was rightly deleted by Commissioner (Appeals).

9. Accordingly, looking into the facts of the instant case and the judicial precedents cited above, we are of the considered view that Ld. CIT(Appeals) has not erred in facts and in law in allowing the appeal of the assessee, looking into the instant facts and therefore, we are of the considered view that no interference is called for in the order passed by Ld. CIT(Appeals).

10. In the result, the appeal of the Department is dismissed.

<b>This Order pronounced in Open Court on</b>	<b>25/09/2024</b>
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**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 25/09/2024

TANMAY, Sr. PS

**TRUE COPY**

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1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad