

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "J" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No.4091/Mum/2024  
Assessment Year 2018-19

M/s. Goodwill Corporation, 1 <sup>st</sup> Floor, Bibijan Street, 51, Masjid Bunder (W), Mumbai PAN : AAAFG1032A	vs.	ITO, Ward-17(3)(1), Kautilya Bhavan, BKC,Bandra, Mumbai
(Appellant)		(Respondent)

Assessee by : Shri Karthik Natarajan, CA  
Revenue by : Shri Asif Karmali, Sr. DR

Date of Hearing : 24/09/2024  
Date of Pronouncement : 27/09/2024

**PER B.R. BASKARAN, A.M :**

The assessee has filed this appeal challenging the order dt.21-06-2024 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)'] and it relates to AY. 2018-19. The assessee is aggrieved by the decision of the Ld.CIT(A) in confirming the addition of Rs.4,67,208/- made by the Assessing Officer (AO) on account of fall in the Gross Profit ratio of the assessee during the year under consideration vis-à-vis prior year.

2. The facts relating to the case are stated in brief. The assessee is a partnership firm and is engaged in the business of trading of various items of engineering products. During the course of assessment proceedings, the AO noticed that the assessee has declared a Gross Profit rate of 19.31% in the immediately preceding year, whereas it has declared a Gross Profit rate of 11.34% only during the current year. Hence, the AO asked the assessee to explain the reasons for fall in the Gross Profit ratio. The assessee explained that it is dealing in various items of engineering products and rate of Gross Profit is not uniform in all the items. It was also stated that the profit margin is kept low when the customers make quick payments. Accordingly, it was submitted that the rate of gross profit shall not be uniform every year. The AO was not satisfied with the above said explanations of the assessee. Accordingly, he computed average rate of Gross Profit @ 16% by taking into account the rate of gross profit declared in the preceding years. Accordingly, he estimated the Gross Profit amount by applying the average rate of 16% and added the difference amount of Rs. 4,67,208/- to the total income of the assessee. The Ld.CIT(A) also confirmed the same.

3. We heard the parties and perused the record. The Ld.AR submitted that the assessee is dealing in various items of engineering products and in a competitive market, it is not possible to maintain uniform rate of Gross Profit. The assessee would be adjusting the rate of Gross Profit depending upon the market requirements, rate quoted by competitors, the manner of payments expected from the customers and various other factors. He submitted that the assessee has furnished a specific sample bill before the AO in order to demonstrate that it has earned a Gross Profit ratio of 4.58% only in that transaction. He submitted that the Gross Profit rate will not remain static every year

and the assessee itself has declared different rate of gross profit in various year. He submitted that the AO is also aware of this fact. Accordingly, he submitted that the AO was not justified in estimating the profit at higher rate, without bringing any material on record to show that the rate of profit declared by the assessee suffers from deficiencies.

4. The Ld.DR, on the contrary, supported the orders passed by the tax authorities.

5. Having considered the rival submissions made by the parties, we are of the view that there is merit in the contentions of the assessee. We notice that the AO has not brought on record any material to show that the Books of Account of the assessee are not reliable, which is required to be established in order to disturb the Gross Profit rate declared by the assessee. We also notice that the assessee has offered explanations for the fall in Gross Profit ratio, which were not proved to be incorrect by the AO. More particularly, the assessee has furnished details of purchase and sale of specific items of goods wherein it had earned Gross Profit of 4.58%. As rightly pointed out by the Ld.AR, the rate of Gross Profit that could be earned by a business man would depend upon various factors like market conditions, rate quoted by competitors, payments schedule of the customers, technological advancement resulting in obsolete items etc. Hence, merely for the reason that the assessee has declared lower rate of Gross Profit rate in this year vis-à-vis the earlier year, the AO is not right in disturbing the same, that too without bringing any material to show that the rate of Gross Profit declared by the assessee is not reliable.

5.1. Before us, the Ld.AR placed reliance on the decision of the Coordinate Bench of the Tribunal in the case of ACIT vs. Ashish Bansal, in ITA No. 7427/Del/2018, dt. 02-06-2023; wherein the Tribunal had confirmed the order of the Ld.CIT(A) in deleting the identical addition made in that case. The operative portion of the order passed by the Delhi Bench of the Tribunal in the above said case is extracted below:-

*“10. It is a well accepted principle tax jurisprudence that the Assessing Officer cannot sit on the arm chair of a businessman assessee to replace his business strategy by his own whims and fancies. When the assessee took decision to reduce GP rate with an intention to fetch high turnover resulting into increase in the total net profit and under this strategy the assessee under took turnover of 34 times in comparison to the immediately preceding year taking sky high increase in the turnover which resulted into reduction of GP rate to 0.41%. From the copy of the three years comparative chart with breakup of jewellery segment, bullion segment and Job work segment it is clear that when the turnover of assessee was less than the GP rate was 8.59% and when the assessee under business strategy increase the turnover to 34 times to Rs 292.13 crore then the GP rate was reduce to 0.41% the GP rate of other segments such as artificial jewellery, semi precious stones and job work also faced marginal changes but the Assessing Officer only noted abnormal fall in GP rate of jewellery without pointing out any defects or discrepancies in the audited books of accounts of assessee and this approach without any other positive material or evidence, only on standalone basis is not correct and justified. In view of foregoing, we are compelled to hold that the Id. CIT(A) was right in deleting addition made by the Assessing Officer without any justified reasoning and cogent basis. Thus, we declined to interfere with the findings arrived by ld. first appellate authority as we are unable to seen any ambiguity, perversity or any valid reason to interfere with the findings of the ld. CIT(A). Accordingly, grounds of revenue being devoid of merits are dismissed.”*

5.2. We notice that the facts prevailing in the present case are identical in nature. Accordingly, we are of the view that the Ld.CIT(A) was not justified in confirming the addition made by the AO and

accordingly, we set aside the order passed by the Ld.CIT(A) on this issue and direct the AO to delete the impugned addition.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 27-09-2024

Sd/-  
[RAJ KUMAR CHAUHAN]  
JUDICIAL MEMBER

Sd/-  
[B.R. BASKARAN]  
ACCOUNTANT MEMBER

Mumbai,  
Dated: 27-09-2024

*TNMM*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "J" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai