

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.397/Chny/2024
निर्धारणवर्ष/Assessment Year: 2016-17

The ITO, Ward-1, Puducherry.	v.	M/s.Saranya Agro- Foods Pvt. Ltd., No.35, IInd Cross, Kurinji Nagar, Lawspet, Puducherry-605 008.
		[PAN: AAQCS 3731 D]
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
Department by	:	Mr. P. Krishna Kumar, JCIT
Assessee by	:	Mr. G. Natarajan, CA
सुनवाईकीतारीख/Date of Hearing	:	09.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	14.11.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 06.12.2023 for the Assessment Year (hereinafter in short "AY") 2016-17.

2. At the outset, appeal filed by the Revenue is delayed by '10' days, for which, the ITO, Ward-1, Puducherry, has filed the affidavit for condonation of delay, to which, the Ld.Counsel of the assessee has not



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raised any serious objection. Consequently, the delay of '10' days in filing of the appeal stands condoned and the appeal filed by the Revenue is taken up for hearing on merits.

3. The main grievance of the assessee is against the action of the Ld.CIT(A) deleting the addition.

4. The brief facts as noted by the AO are that the assessee company had filed its return of income (RoI) for AY 2016-17 on 27.08.2016 admitting total income of Rs.1,95,460/-. Later, the RoI was selected for scrutiny under CASS. According to the AO, he issued statutory notices and inter-alia, notice u/s.142(1) of the Income Tax Act, 1961 (hereinafter in short "the Act") dated 05.10.2018 with a questionnaire calling for certain details and pursuant to which the assessee furnished few details which fact the AO acknowledged in the first paragraph of assessment order. The AO again asked the assessee to furnish certain details on 18.10.2018 and also vide notice dated 08.12.2018. According to the AO, the assessee didn't produce certain information like details of short term borrowing loan from bank [*increased to Rs.7,98,53,897/-, finance cost details (reduced), but loan increased, increase in other expenditure, complete trial balance, complete set of ledger and day book, cash book and Audit Report in Form 3CD*]. According to the AO, even though, assessee has been given opportunities, it didn't utilized the same and has



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not even furnished the books of accounts and other details for verification. Therefore, he was of the opinion that assessee company doesn't have any documentary evidence to support its claim and therefore, he rejected the books of the assessee and estimated the income @8% of gross receipt of Rs.27,46,73,849/- i.e. Rs.2,19,73,907/- in place of the returned income of Rs.1,95,460/- u/s.144 of the Act (best judgment assessment).

5. Aggrieved, the Revenue preferred an appeal before the Ld.CIT(A) who was pleased to delete the same.

6. Aggrieved, the Revenue is in appeal before this Tribunal.

7. We have heard both the parties and perused the material available on record. We note that the assessee is a Private Limited Company, engaged in the import of refined palmolein. The assessee has been maintaining proper books of accounts in its normal course of business which are audited u/s.44AB of the Act. The assessee had also filed the Audit Report before the AO and filed its RoI on 27.08.2016 admitting total income of Rs.1,95,460/-; And pursuant to the notice issued u/s.142(1) of the Act dated 05.10.2018, assessee had responded by filing the details called for. The assessee also asserted that it requested the AO as to whether he requires any further details vide letter dated 05.11.2018. According to the assessee, it has filed all the details called for by the AO



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and despite that to its surprise, it received the best judgment assessment order dated 30.12.2018 rejecting the books of accounts and computing the income @8% on gross receipts to the tune of Rs.2,19,73,907/- in place of its returned income Rs.1,95,460/-. The assessee brought to the notice of the Ld.CIT(A) that it has filed all the documents called for by the AO including the audited report and also brought to his notice that assessee had filed the VAT returns regularly with the VAT Department, Puducherry, which has been duly accepted by them. It was asserted before the Ld.CIT(A) neither assessee didn't get any notice dated 08.02.2019 nor letter dated 08.12.2018 and filed the screen shot of list of e-mail communications by the AO. Thus, it was contended before the Ld.CIT(A) that the AO grossly erred in rejecting the books on the ground that the assessee didn't furnish the books of accounts and documents supporting the claim made by the assessee. The Ld.CIT(A) after considering the submissions of the assessee, forwarded the audited books as well as the assessee's submissions to the AO on 28.08.2023 calling for the Remand Report, which was not given by AO; and again Ld CIT(A) asked for it [Remand Report] by sending a reminder on 05.10.2023, which was also not responded by AO. The Ld.CIT(A) taking note that the AO didn't respond to his directions for filing of Remand Report went ahead to pass the impugned order dated 06.12.2023.



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8. The Ld.CIT(A) also noted that 85% purchases made by the assessee are direct imports through letter of credits opened by banks or high sea sales from other importers (4% of the total purchases). According to the assessee, 90% of purchases passed through customs and the AO having accepted the sales figures, the audited books should not have been rejected and ad hoc estimation should not have been resorted to. The Ld.CIT(A) took note of the fact that the AO has accepted the total turnover of the assessee i.e. total sales. Therefore, the action of the AO rejecting the books without complying with the conditions laid down u/s.145(3) of the Act was held to be not in accordance to law and hence, he accepted the audited books of accounts of the assessee and taking note of the result of the earlier years, wherein the assessee has shown gross profit @1.67% in AY 2014-15, @ 2.79% in AY 2015-16 and @2.98% in AY 2016-17, the Ld.CIT(A) accepted the return filed by the assessee. We don't find any infirmity in the impugned action of the Ld.CIT(A) especially when the AO had not filed Remand Report despite given two opportunities to do so by the Ld.CIT(A). According to us, the audited books of accounts of the assessee couldn't have been rejected by the AO without satisfying the condition stipulated u/s.145(3) of the Act which in this case is absent because the AO rejected the books mainly alleging non-filing of relevant documents but we find that the assessee had filed the requisite details as called for by him. Therefore, the AO's



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action of rejecting books in such factual back ground needs to be termed as perverse and therefore, we uphold the action of the Ld.CIT(A) accepting the books and the results of it and therefore, we dismiss the appeal of the Revenue.

9. In the result, appeal filed by the Revenue stands dismissed.

Order pronounced on the 14th day of November, 2024, in Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 14th November, 2024.

TLN, Sr.PS

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित /**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF