

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" NEW DELHI**

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No.3442/Del/2024

निर्धारणवर्ष/Assessment Year: 2023-24

Gyan Chandra Agarwal Station Road, Ujhani Badayun- 243639, Badaun, Uttar Pradesh.	<u>बनाम</u> Vs.	ITO, Ward 2(3), Badayun, Uttar Pradesh.
PAN No. ACLPA8059J		
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

निर्धारितकीओरसे / Assessee by	Shri Somil Aggarwal, Adv. & Shri Shrey Jain, Adv.
राजस्वकीओरसे / Revenue by	Shri Sanjay Kumar, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	12.11.2024
उद्घोषणाकीतारीख/ Pronouncement on	14.11.2024

आदेश /O R D E R

This is an appeal by the assessee against the order of the Learned-CIT(Appeals) dated 07.06.2024 and pertains to the assessment year 2023-

24. The grounds of appeal read as under: -

1. *"That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld, DDIT CPC in making an addition/adjustment of Rs.9,28,776/- on account of increase of profits under ICDS and that too without any basis and without appreciating the facts and circumstances of the case and in violation of principles of natural justice.*
2. *That in any case and in any view of the matter, action of Ld.CIT(A) in confirming the action of Ld. DDIT CPC in making an addition/adjustment of Rs.9,28,776/- on account of increase of profits under ICDS, is bad in law and against the facts and circumstances of the case and further erred in making double addition in this regard.*

3. *That having regard to the facts and circumstances of the case, Ld.CIT(A) ought to have deleted the impugned addition/adjustment made by Ld. DDIT CPC u/s 143(1) as the same is outside the purview of section 143(1) of the Act.*
4. *That the appellant craves the leave to add, modify, amend or delete any the grounds of appeal at the time of hearing and ail the above grounds; without prejudice to each other.”*

2. Brief facts of the case are that assessee has filed his return of income for AY 2023-24 declaring total income of Rs.6,46,150/-. The said return of income was processed u/s 143(1) of the Act on 04.03.2024, wherein the total income was determined at Rs.15,74,930/-. In the said intimation order, the AO CPC has made the addition of Rs.9,28,776/- on account of increase of profit under ICDS. Against the above order, the assessee has filed the appeal before the Ld.CIT(A). Ld.CIT has confirmed the AO's action.

3. Against this order assessee has filed appeal before the ITAT. I have heard both the parties and perused the records.

4. Ld. Counsel of the assessee stated that in this case the assessee has valued stock at selling price. He submitted that stock needs to be valued cost or sale price whichever is lower. Since the assessee has valued the closing stock on sale price there was increase in profit of Rs.9,28,776/-. Thus, he submitted that assessee has already increased the profit by the above sum. The tax auditor has only noted this aspect that there is increase in profit amounting to Rs.9,28,776/-. He submitted

that in the tax audit report it is clearly written that whether any adjustment is required to be made to the profit and loss for complying to the provisions of income, computation and disclosure standards notified u/s 145(2) of the Act. The answer written by the tax auditor is no. Hence, Ld. Counsel submitted that the authorities below have erred in understanding the facts of the case.

5. Per contra, the Ld. DR could not dispute the submissions made by the Ld. Counsel of the assessee.

6. Upon careful consideration, I find that assessee has valued the stock at selling price. This has led to any increase of Rs.9,28,776/- in the value of closing stock and consequently there is an increase in profit of Rs.9,28,776/-. This aspect was only pointed out by the tax auditor. The revenue authorities have erred in understanding this aspect. Their action in increasing the profit by Rs.9,28,776/- again has led to double addition, which is not sustainable in law. Accordingly, in the background of aforesaid discussion, I set aside the orders of the authorities below and delete the addition.

7. In the result, the assessee's appeal is allowed.

Order pronounced in the open court on 14/11/2024

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 14.11.2024

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard
file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi