

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

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

ITA No. 4508/Mum/2024
Assessment Year : 2018-19

Ashish Krishnalal Mishra, Mishra Bhavan, Manda Titwala, Titwala, Maharashtra PAN : AETPM9110Q	vs.	Income Tax Officer, Ward-3(1), 2 nd Floor, Rani Mansion, Kalyan-Murbad Road, Above Canara Bank, Kalyan
(Appellant)		(Respondent)

Assessee by : Shri Ajay R. Singh &
Shri Akshay Pawar,

Revenue by : Shri Sunil Shinde, Sr.DR.

Date of Hearing : 14/11/2024

Date of Pronouncement : 26/11/2024

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the order dated 09-07-2024 passed by the Ld.CIT(A)-NFAC, Delhi and it relates to the Assessment Year (AY.) 2018-19.

2. At the time of hearing, the Ld.AR did not press Ground relating to the addition of Rs.2,72,928/-. Accordingly, the same is dismissed as not

pressed. The remaining ground relates to the addition of Rs.45,83,944/- relating to undervaluation of stock.

3. The facts relating to the case are discussed in brief. The assessee is a wholesale distributor for prepaid mobile recharge vouchers and money transfer agent for M/s. Vodafone India Ltd. products. He sells the products of above said company to retail vendors. During the course of assessment proceedings, the AO noticed that the assessee has declared gross profit of Rs.34,23,635/- against the sale of Rs.19.64 crores. The AO noticed that the assessee has credited Commission Income of Rs.80,07,579/- in the Trading Account and accordingly declared gross profit of Rs.34,23,635/-. The AO took the view that since the mobile prepaid vouchers are sold at cost and the assessee receives commission income against the sales, the Opening Stock (+) Purchases (-) Sales should be the value of Closing Stock. However, the AO noticed that the assessee has declared closing stock of Rs.20,86,300/-, which was not equal to Opening Stock (+) Purchases (-) Sales. He further held that the Commission Income should be taken to Profit and Loss Account. Accordingly, the AO re-casted the Profit and Loss Account by excluding the Commission Income and it resulted in a Gross Loss of Rs.45,83,944/-. Accordingly, the AO came to the conclusion that the value of closing stock may not be correct. Further, the assessee has not proved the value of closing stock by furnishing the details of opening stock, purchases and sales – itemwise, quantity wise, rate wise and value wise. Accordingly, the AO took the view that the closing stock should be taken as Rs.66,70,244/-, being the value arrived at under the formula Opening Stock (+) Purchases (-) Sales. Since the AO has declared the closing stock at Rs.20,86,300/-, the AO added the difference of Rs.45,83,944/- (Rs.66,70,244/- (-) Rs.20,86,300/-) to the total income of the assessee. The Ld.CIT(A) also confirmed the same.

4. The Ld.AR submitted that the assessee has declared gross profit @ 1.70% of sales every month. In addition to the above, M/s Vodafone India Ltd., has been paying commission to the assessee. He submitted that the commission is actually in the nature of product discount and hence the same is credited to the Trading Account. He submitted that the assessee has been crediting the commission income to the Trading Account in the past years also. He submitted that the principal company M/s.Vodafone India Ltd., has since been closed and hence the assessee could not quantity details, as called for by the AO. He submitted that the net profit declared by the assessee will not undergo any change, if the commission income is credited to Trading Account or Profit and Loss Account. Accordingly, he submitted that the addition made by the AO should be deleted.

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

6. We heard the parties and perused the record. We notice that the AO has made the addition of Rs. 45,83,944/- under the presumption that the assessee is getting commission income on sale of prepaid vouchers and hence, the value of Opening Stock (+) Purchases should be equal to Sales (+) Closing stock. Under this formula, the AO arrived at the closing stock value of Rs. 66,70,244/-. Since the value of closing stock declared by the assessee was Rs. 20,86,300/-, the AO assessed the difference of Rs.45,83,944/- admittedly towards the value of undisclosed stock. We notice that the assessee has not taken support of any material to support above said presumption that the value of opening stock and purchases should be equal to the value of sales and closing stock. At the same time, the assessee was not able to explain as to why he is incurring loss without commission income. There should not any doubt that it is the duty of the

assessee to explain the entries made in the books of account and financial statements. The Ld.AR submitted that the assessee could not get quantity details, since the principal company M/s.Vodafone India Ltd., has since been closed. We also notice that the books of accounts of the assessee have been audited and the auditor has not given any qualification. Under these set of facts, we are of the view that no purpose will be served in restoring this matter back to the file of the AO, since the assessee would not be in a position to furnish any new details. Accordingly, we are of the view that this issue may be put to rest by sustaining part of addition made by the AO. Accordingly, we set aside the order passed by the Ld.CIT(A) on this issue and direct the AO to sustain addition to the extent of 25% of addition of Rs.45,83,944/-, i.e., Rs.11,46,000/- (rounded). In our view, this will put this issue to rest. We order accordingly.

7. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 26-11-2024

Sd/-
[RAJ KUMAR CHAUHAN]
JUDICIAL MEMBER

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

Mumbai,
Dated: 26-11-2024

TNMM

Copy to :

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

By Order

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