

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No. 959/Ahd/2024 &
C.O. No. 12/Ahd/2024
Assessment Year 2020-21**

The DCIT, Central Circle-1(2), Ahmedabad	Vs	Yagneshkumar Gandhi Prop. of Ms Astmangal 1 st Floor, Veerkala Complex, M.G. Haveli Road, Manekchowk Ahmedabad-380001 Gujarat PAN: ADIPG0827G
Yagneshkumar Gandhi prop. of Ms Astmangal 1 st Floor, Veerkala Complex, M.G. Haveli Road, Manekchowk Ahmedabad-380001 Gujarat PAN: ADIPG0827G (Appellant)	Vs	The DCIT, Central Circle-1(2), Ahmedabad (Respondent)

**Revenue Represented: Shri Rignesh Das, Sr.D.R.
Assessee Represented: Shri Mahesh Chhajer, A.R.**

Date of hearing : 26-11-2024
Date of pronouncement : 28-11-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Revenue as against the appellate order dated 08.03.2024 passed by the Commissioner of Income Tax (Appeals)-11, Ahmedabad arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2020-21. As against the above Revenue appeal, the assessee has filed the present Cross Objection.

2. The brief facts of the case are that the assessee is an individual and Proprietor of M/s. Astamangal engaged in the business of manufacturing of gold chain jewellery, retail and wholesale trading of gold jewellery. For the Assessment year 2020-21 the assessee filed his Return of Income on 11-01-2021 declaring total income of Rs.1,77,48,320/-. There was a Survey action under section 133A of the Act was carried out in the case of the assessee along with other jewellery group of Ahmedabad on 07-02-2020. During the course of assessment proceedings, on perusal of impounded documents, the AO had noticed that there were various entries recorded in Courier, Angadia slips, JPG image sheet, etc found from the assessee's business premises. On perusal of the materials, the AO found that the said entries recorded in the impounded documents was representing the unaccounted sale to the various parties on various dates by the assessee during the year under consideration. After detailed verification the total amount of unaccounted sales came to Rs.2,67,91,319/- [Rs.2,20,81,929 + Rs.90,000 + Rs.2,60,000 + Rs.8,20,147 + Rs.6,79,000 + Rs.1,63,540 + Rs.15,56,000 +

Rs.11,39,803]. In this regard, the assessee had filed reply, which was considered but not accepted by the AO, thereby Ld. A.O. treated the same as unaccounted sales and added to the total income of the assessee, while passing the assessment order and demanded tax thereon.

3. Aggrieved against the assessment order, the assessee filed an appeal before Commissioner of Income Tax [Appeals] and claimed that gross receipt cannot be treated as income and only net profit on such receipt is required to be treated. Hence any undisclosed income computed without following the principle of real income and without corroborative material/evidence brought on record and on the basis of mere hypothesis would be tantamount to computing of notional undisclosed income which would be against the provisions of the Act. Thus the assessee submitted the details of the gross profit and net profit for the last three years as under and requested to estimate the income:-

Asst. Years	Gross Profit	Net Profit
2018-19	1.51	0.27
2019-20	1.30	0.19
2020-21	4.51	1.74

4. Ld CIT[A] considered the above submissions of the assessee and estimated the margin of profit at 6% by observing as follows:

“4.4 In view of the above, the appellant has requested to consider the past history of appellant while estimating the income of the appellant. In this regard, it is observed that, it is a well-accepted methodology to estimate the income based on either the past records of the assessee or on the basis of margin earned by other assesseees in the same business. Therefore, under such circumstances what is to be taxed is the margin of profit that appellant retained in cash, which obviously is higher than what is reflecting in books. It is settled law that profit margin in unrecorded

transaction is higher than the recorded transactions Therefore, keeping in view of this aspect, profit margin in the instant case for said unrecorded transactions is estimated @ 6% that comes to Rs. 16,07,480/- (6% of Rs.2,67,91,319/-). This additional cash margin of profit is not appearing in books therefore addition of Rs. 16,07,480/- is confirmed and balance addition is directed to be deleted. It is also relevant to mention here that the claim of the appellant regarding unaccounted excess stock found during the survey has to be given telescoping effect on the estimated profit on sales, is not found to be correct as the appellant has failed to furnish the documentary evidence which suggest that the said unaccounted income was utilized in the excess stock.

4.5 In view of the above legal and factual matrix of the case, the AO is directed to consider the confirmed addition of Rs. 16,07,480/- out of the total addition of Rs.2,67,91,319/-. Remaining addition stands deleted. Thus, the grounds of appeal no. 1 & 2 are partly allowed."

5. Aggrieved against the same, the Revenue is in appeal before us raising the following Grounds of Appeal:

1) "In the facts and on the circumstances of the case and in law, the Id.CIT(A) has erred in deleting the addition of Rs. 2,51,83,839/, out of total addition of Rs. 2,67,91,319/ made on account of unaccounted sales."

2) "The Revenue craves leave to add/alter/armed and/or substitute any or all the grounds of appeal."

6. Assessee is in Cross Objection raising the solitary Ground that the Ld. CIT(A) has erred in law and on facts in upholding addition to the extent of Rs.16,07,480/-.

7. Heard rival submissions and considered the materials placed on record including the Paper Book filed by the assessee. Ld. Sr. D.R. appearing for the Revenue could not demonstrate before us how the order passed by the Ld. CIT(A) as erroneous and could not point out the estimation at 6% as the profit margin in the above case. It is well settled principle of law, the undisclosed income is required

to be computed on the basis of principle of real income. In the absence of relevant evidences filed by the assessee, the Ld. CIT(A) considered the gross profits of the assessee relating to the previous two years and arrived the estimation at 6% as the profit margin. Further Ld. CIT(A) considered the unrecorded transactions is always higher than the recorded transactions. Thus we do not find any merits in the grounds raised by the Revenue. Thus the Grounds raised by the Revenue is hereby rejected.

8. In the result, the appeal filed by the **Revenue is hereby dismissed.**

9. Similarly assessee could not place on record any merits in the ground raised in the cross objection filed by it. Consequently the **Cross Objection filed by the Assessee is also hereby dismissed.**

Order pronounced in the open court on 28-11-2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER
Ahmedabad : Dated 28/11/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद