

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A': NEW DELHI**

**BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No.1007/DEL/2023
(Assessment Year: 2017-18)**

ACIT, Central Circle,
Ghaziabad.

vs.

Al-Dua Food Processing Pvt. Ltd.,
16, Fire Brigade Lane,
Connaught Place,
New Delhi – 110 001.

(PAN : AAGCA0396J)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Deepak Singh, Advocate
REVENUE BY : Shri Javed Akhtar, CITDR

**Date of Hearing : 25.09.2024
Date of Order : 06.12.2024**

ORDER

PER S. RIFAUR RAHMAN,AM:

1. This appeal is filed by the assessee against the order of Id. Commissioner of Income-tax (Appeals)-4, Kanpur [hereinafter referred to 'Ld. CIT (A)'] dated 25.01.2023 for Assessment Year 2017-18.
2. Brief facts of the case are, assessee filed its return of income declaring total income of Rs.8,76,98,220/- on 30.11.2017. The return was processed u/s 143(1) of the Income-tax Act, 1961 (for short 'the Act'). The case was selected for scrutiny under CASS and statutory notices

u/s 143(2) and 142(1) along with detailed questionnaire were issued and served on the assessee through electronically and the same is reproduced by the Assessing Officer in his order. In compliance, Id. AR of the assessee attended and submitted relevant information as called for.

3. The assessee is a company incorporated in the year 2005 under Companies Act, 1956. Assessee is engaged in the business of export of meat and meat products to various countries across the world. The assessee has integrated slaughtering-cum-meat processing plant at Aligarh (UP). The primary input for processing is purchase of raw meat from various suppliers. The meat is purchased from suppliers after slaughtering on the basis of weight of the carcass in accordance with per kg. basis. The Assessing Officer observed that during the year under consideration, the assessee has declared Gross Profit (GP) and Net Profit (NP) percentage at 5.89% and 1.72% respectively. AO observed that in the preceding year, the GP and NP rate declared by the assessee are 7.19% and 2.35% respectively. Therefore, he observed that there is an abnormal down fall in the GP and NP declared by the assessee. In order to verify the same, he verified various documents submitted by the assessee electronically. During the assessment proceedings, assessee was asked to submit confirmation of persons from whom assessee purchased meat, necessary certificate of

Veterinary Doctor as required under Rule 6DD read with section 40A(3) of the Act to be filed, further details of PAN and address of the persons from whom assessee has purchased live stock, details of payment made exceeding Rs.20,000/- in a day etc. In absence of complete details from assessee, considering the time barring assessment, the Assessing Officer proceeded to complete the assessment and he observed that assessee was found with huge cash withdrawals in crores made in each month, therefore, possibility of cash payment in violation of provisions of section 40A(3) in respect of purchase of raw material is not ignored. Further he observed that assessee has declared higher GP and NP in AY 2013-14 to 2016-17 against current assessment year. With the above observation, Assessing Officer proceeded to arrive at the average GP and NP at 8.46% and 4.34% respectively and accordingly he proceeded to make the addition of difference of the same and compared the same with the previous assessment years. He further observed that the profit declared by the assessee in AY 2013-14 seems to be reasonable. Since assessee has not submitted relevant information and no complete details with supporting documentary evidences were filed, accordingly he rejected the books of account u/s 145 of the Act and observed that NP of 4% is applied in this year which would be fair and justified in the interest of natural justice. Accordingly, he made the addition of NP 2.28% of the

total sales (4% minus 1.72%) and made addition of Rs.23,47,88,621/-. Further he observed that assessee has made cash payment of Rs.12,04,40,188/- to various suppliers of buffalo meat against the provisions of section 40A(3) of the Act and no complete addresses, their PAN and confirmation was filed. With the above observation, he proceeded to make the addition of NP.

4. Aggrieved with the above order, assessee preferred an appeal before the ld. CIT(A), Kanpur-4. Assessee has filed grounds of appeal and also filed detailed written submissions before the ld. CIT (A) and same was reproduced at pages 3 to 17 of the order. After considering the detailed submissions and assessment order, ld. CIT (A) deleted the addition by observing as under :-

“6.10 It is submission of Ld. AR that the observations in a recent landmark decision of Hon'ble Delhi High Court in case of CIT vs. Smt. Poonam Rani [2010] 192 TAXMAN 167 (DELHI), are significant and the same are applicable in case of the appellant since no any particular defect or discrepancy in the account books maintained by the appellant has been found by Ld AO And if the rate of GP declared by the assessee in a particular period is lower as compared to the gross profit declared by him in the preceding year, that may alert the Assessing Officer and serve as a warning to him to look into the accounts more carefully and to look for some material which could lead to the conclusion that the accounts maintained by the assessee were not correct, but a low rate of gross profit, in the absence of any material pointing towards falsehood of the account books, cannot, by itself, be a ground to reject the account books under section 145(3). He submits that this

observation is applicable to the facts of appellant's case and the ruling supports the facts of the present case.

6.11 Ld. AR submits that in any case the appellant IS also entitled to deduction u/s 80IB of the Act upto 100% of its business income. This fact further strengthens the case of the appellant as the appellant had no incentive in disclosing a wrong business income as no tax was payable on its income. Ld. AR further submits that Ld AO has not allowed claim of 100% deduction in the profit computed by him by rejecting books of accounts and has allowed only the deduction which was computed by the appellant in its working. Ld. AR submits that if the books are rejected and profit is computed by rejecting books of accounts, the appellant is entitled for claim of 100% deduction in accordance to provisions of section 80IB of IT Act and Ld. AO has not allowed the same.

6.12 From the facts of the case, it has been found that the appellant has made purchases and made the payments through cheque on 99.67% purchases and the cash purchases are only 0.33%. It has further been found that in the matter of cash purchases, appellant is eligible for benefit of Rule 600(e)(ii) of IT Rules. Further after the search proceedings in case of the appellant, the assessments have been done but books have never been rejected. It is also a fact that in the year under consideration, the appellant is eligible for claim of deduction of 100% of profit and gains in the eligible business in accordance to provisions of section 80IB of IT Act, hence there appears to be no reason of suppression of profits of the eligible business It has been found that the appellant has shown NP rate of 2.35% in immediately preceding year i.e. AY 2016-17 and the same was also accepted by the ld. AO in the search assessment proceedings However this year i.e in AY 2017-18 NP rate is 1.72% and thus there is fall of 0.63%. The appellant attributes this fall to fall In duty drawback of 0 20% and to S. Tax refund of 0.27% (in AY 2016-17 duty drawback was 0.84% and in AY 2017-18 the same was 0.64% and in case of S. Tax refund, these figures were 0.35% and 008%) Thus the difference of 0.47% is explained. Further in the matter of balance difference of

0.16% in NP figures of AY 2016-17 & 2017-18, Ld AR submits that primary reason for fall in NP from 2.35% to 1.72% is fall in export turnover from 71.24% in AY 16-17 to 65.53 % of the turnover in AY 17-18 (fall of 571%). He claims that the margins in export sales are much more than domestic sales and hence in a turnover of 1028.11 crores fall of 5.71% in export turnover contributes a lot in overall decline of NP. In this regard it is observed that the appellant failed to furnish the details of exact profit margin in exports sales and domestic sales Therefore, it is concluded that the NP margin of 0.06% may be considered to have been declined due to decline in export sales however looking to the facts and circumstances of the case, it is concluded that the appellant could not explain the downfall in NP margin to the extent of 0.10% of total turnover i.e. 1028.11 crores This is computed at Rs.1,02,81,100/-. Therefore addition of Rs.1,02,81,100/- is upheld out of total addition made by the Assessing Officer. However the AO is directed to give the benefit of deduction in the profits and gains derived from eligible business in accordance to provisions of section 80IB of IT Act. As per this section, the appellant is eligible for 100% deduction on the profit from the eligible business. In the assessment order it has been found that Ld. AO has computed NP by rejecting books of accounts at Rs. 41,12,46,052/- and Since the appellant has shown NP of Rs. 17,64,57,430/-, net addition of Rs. 23,47,88,621/- has been made. However the computation of claim of deduction u/s 8018 of IT Act has not been made by considering the profit and gains estimated by Ld. Assessing Officer. Therefore ld. AO is directed to compute claim of Deduction u/s 8018 of IT Act on the profits and gains derived from the business after considering the sustained addition as per law.

In the light of above observations, various grounds of appeal are adjudicated by sustaining addition of Rs.1,02,81,100/- and deleting balance amount of Rs.22,45,01,521/- [Rs. 23,47,88,621/- (-) Rs.1,02.81,100/-]. Further Ld AO is directed to compute claim of deduction u/s 8018 of IT Act on the profits and gains derived from eligible business. Since this sustained

addition of Rs.1,02,81,100/- is on account of net profit of eligible business, the same needs to be considered as eligible profit for claim of deduction u/s 80IB of IT Act.

5. Aggrieved with the above order, Revenue is in appeal before us raising following grounds of appeal :-

“1. On facts and circumstances of the case and in law. the Ld. CIT(A) has erred in deleting the addition of Rs.22.45,07,521/- out of total addition of Rs.23,47,88,621/- on account of enhancement of N.P. rate without considering the facts following facts:-

(i) The Ld. CIT(A) has failed to consider the fact as elaborated in the assessment order that in spite of sufficient opportunities provided to the assessee, the assessee failed to furnish complete details, PAN, address etc. of the persons from whom raw material was purchased. Therefore, genuineness or purchases could not be established.

(ii) The CIT (A) has observed that the assessee had shown NP rate of 2.35% in immediately preceding year i.e. A.Y. 2016-17 and the same was also accepted by the AO in the search assessment proceedings. With this observation, he has opined that this year i.e. in A.Y. 2017-18 NP rate is 1.72% and thus there is fall of 0.63% as compared to NP rate declared for A.Y. 2016-17. This observation of the ld. CIT (A) is not acceptable as the Ld. CIT (A) has ignored the fact that each assessment year is separate and distinct in itself and therefore, the observation that no action for earlier year on the same issue was taken is totally unjustified. Further, during assessment proceedings, no justification of low G.P. & N.P. in comparison to earlier two assessment year, have been furnished by the assessee. Therefore, the AO is right in estimating the NP rate @ 4% for the instant year on the basis of bogus & inflated purchases.

2. On facts and circumstances of the case and in law, the ld. CIT (A) is not justified in directing the AO to compute claim of deduction u/s 80IB of IT Act on the

profits and gains derived from the business after considering the sustained addition as per law is also not justified as during assessment proceedings, no documentary proof regarding assessee's claim of deduction u/s 80IB (IIA) was furnished.”

6. At the time of hearing, ld. DR for the Revenue brought to our notice findings of the Assessing Officer from pages 5 to 13 of the assessment order and further brought to our notice findings of the ld. CIT (A) and he vehemently argued that the assessee has not submitted any document or any material before the Assessing Officer and ld. CIT(A) has accepted the submissions of the assessee on face value.
7. On the other hand, ld. AR for the assessee submitted written submissions and submitted that assessee has explained various reasons for falling profit compared to earlier assessment years, therefore, he supported the findings of the ld. CIT (A). For the sake of clarity, written submissions filed by the ld. AR for the assessee is reproduced below :-

“ That appellant filed return of income for A.Y. 2017-18 declaring of income Rs.8,76,98,220. Assessment u/s 144 of I.T.Act 1961 was made on an income of Rs.32,24,86,850. A major addition is on account of increasing the NP rate from 1.72% to 4 %, thereby making addition of Rs.23,47,88,621. The Ld. CIT(A) deleted the addition to the extent of Rs.22,45,07,521 while sustaining an addition of Rs.1,02,81,100. He has, however, directed the A.O. to allow the deduction u/s 80IB (11A) of the entire business income.

- (1) *That assessee runs a meat processing factory and is an export-oriented unit. Regular books of accounts are maintained by the appellant which are duly audited. Audited Balance Sheet along with audit report and ITR are filed herewith. (8 to 32)*

- (2) *That the main reason given by Ld. A.O. for making the addition by altering the N.P. rate is by comparing the N.P. rates for 5 years and the alleged cash payment to the tune of Rs.12,04,40,188, and also not providing the address of such persons. It is humbly submitted that all the reasons given by Ld. A.O. are factually wrong and untenable.*

NP Rate

- (3) ***That the account book results were not disturbed in earlier years, they were accepted in toto. Search and seizure operations were conducted on the appellant and assessments for A.Y. 2013-14 to 2016-17 were made u/s 153A/143(3) of the I.T.Act. (Copies attached pages 33 to 56) No addition or disallowance was made even after conducting searches and thorough investigation during assessment proceedings. The constant decline in N.P. was also accepted and account books were also accepted in toto for all these years. There was only one technical addition u/s 80IB regarding calculation of eligible profit, appeal against which was filed before honourable ITAT, which allowed the calculation of eligible profits for deduction u/s 80IB as claimed by the appellant. If even after search and thorough investigation during assessment proceedings in immediately preceding four years the sales, purchases, expenses, account books were found in order and the facts and circumstances are identical in the present year then there is no reason or circumstance to disbelieve the accounts. The A.O. has not found anything different as compared to earlier years or has not found any specific deficiency in the accounts except a general observation which is based only on surmise. Appellant had produced all account books, vouchers, stock register and purchase register before the A.O. In view of the above vital facts the book results declared by the appellant deserve to be accepted. List of suppliers of animals is filed herewith (page 57 to 68). The PAN and address of all the big suppliers is mentioned therein. In other cases, the Adhaar No and address are mentioned. Because they are all from rural backgrounds hence some of them don't have a PAN. The total animal purchases during the year are Rs.830,79,91,540 out of which only Rs.2,75,84,836 is by way of cash payment, which is a mere 0.33 % of the total purchases, rest 99.67 % is through bank.***
- (4) *That without prejudice to the above submissions, mere fall in NP rate cannot form basis for an addition. The account books are duly audited, and major component of the sales are exporting the proceeds of which are received only through banking channel and is easily verifiable. Even the domestic sales are fully vouched and verifiable all the sales are through banking channel. Ld. A.O. has not found any discrepancy in the sales. He did not find any particular deficiency or mistake in the books of accounts which were duly produced before him.*

Reasons for fall in N.P. and G.P. rates**Comparative figures**

A.Y.	Total Turnover	G.P. Rate	N.P. Rate	
2013-14	719,97,58,715	8.46 %	4.34 %.	after
			(Assessed search)	
2014-15.	1180,82,88,687	9.33%	2.99%	after
			(Assessed search)	
2015-16.	12,71,61,41,756	7.84%	3.05%	after
			(Assessed search)	
2016-17.	10,35,97,67,902.	7.19 %	2.35%	after
			(Assessed search)	
2017-18.	10,28,11,51,291.	5.89 %.	1.72 %	

Comparative Incomes figures

A.Y.	2015-16	2016-17	2017-18
EXPORTS.	9,949,589,447(78.24%)	7,380,443,504(71.24%)	6,738,158,847 (65.53%)
DOMESTIC	2,601,525,026	2,777,415,136	3,309,964,928
TOTAL SALE PRODUCT	12,551,114,473	10,157,858,640	10,048,123,775

OTHER OPERATIONAL REVENUE

DUTY DRAWBACK	143,563,133 (1.13%)	87,315,826(0.84%)	66,825,102(0.64%)
S. TAX REFUND	17,835,249(0.14%)	37,262,087 (0.35%)	8,961,627 (0.08%)
OTHER INCOME	3,628,901	77,331,349	157,240,786
TOTAL OTHER REVENUE	165,027,283	201,909,262	233,027,515
TOTAL REVENUE	12,716,141,756	10,359,767,902	10,281,151,291

- (5) Main reason for fall in NP rate is the declining export income. Margins in export income are higher than the domestic sales. Export sales have declined continuously over last few years which has resulted in fall of GP rate and NP rate. Export turnover in A.Y. 2015- 16 was 78.24% of the total turnover in A.Y. 2016-17 was 71.24% of the total turnover and in A.Y. 2017-18 was 65.53% of the total turnover. hence there was a drastic fall in export income from 78.24% to 65.53% of the total turnover. This was the main reason for fall in GP and NP rates. Perusal of other operational incomes reveals that there is a substantial reduction of income under the head duty drawback which has also contributed to the

fall in NP rate. Duty drawback in A.Y. 2015-16 was 1.13 % of total turnover, in A.Y. 2016-17 was 0.84 % of turnover and in A.Y.2017-18 was 0.64 % of turnover. This reduction also resulted in decline of the NP rate. Moreover,

- (6) certain expenses have increased drastically over the years including bank interest which was in A.Y. 2015-16 0.72 % of turnover, In A.Y. 2016-17 1.19 % of turnover, in A.Y. 2017-18 1.09 % of turnover. This factor also contributed to the decline.

Rejection of books

- (7) That the books of account were wrongly rejected as the conditions laid down in sec.145 were non-existent and the A.O. has not made any specific point or ground for rejection of accounts. Ld. A.O. has made serious errors in alleging the figures of cash payments. Assessee gave a list (pages 69 to 80) of persons to whom payment was made in cash above Rs.20,000 in a day. The gross amount payable to such persons was Rs.4,26,25,634 out of which an amount of Rs.2,75,84,836 was paid in cash while rest Rs.1,50,40,798 was paid through bank. Ld. A.O. has wrongly taken the gross figure of Rs.13,51,80,989 instead of correct figure of Rs.4,26,25,634, he has accordingly taken a wrong figure of Rs.12,01,40,188 (13,52,80,989 – 1,50,40,798) as cash payment instead of correct amount of Rs.2,75,84,836 only. The total animal purchases during the year is Rs.830,79,91,540 out of which only Rs.2,75,84,836 is by way of cash payment which is a mere 0.33 % of the total purchases, rest 99.67 % is through bank. Moreover, as per rule 6DD(e)(ii) the payment in cash is allowed for purchase of animal husbandry products including livestock, meat etc. So even the cash purchase was legally allowed and there was no scope for doubting the account books. Account books along with substantial amount of vouches, stock register and purchase register were produced before the A.O. during assessment proceedings.

Relevant extract of rule 6DD(e)(ii) is as follows

6DD. No disallowance under sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3A) of section 40A where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft exceeds twenty thousand rupees:

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- (e) where the payment is made for the purchase of
- (i) agricultural or forest produce; or
 - (ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
 - (iii) fish or fish products; or

(iv) *the products of horticulture or apiculture, to the cultivator, grower or producer of such articles, produce or products;*

(8) *The casual approach of the A.O in rejecting the accounts is evident from the above facts and figures. It seems he did things in a hurried manner without applying his mind. Payment for purchases of 99.67 % was through bank. Bank account is the most authentic evidence of identity of the payee, the purchase register was also produced indicating the names and addresses of the payees. The A.O. accepted the sales figures, he did not point out any specific instance of fake entry in the books, a mere presumption or surmise does not warrant rejection of books. The sales were fully verifiable as a major portion of sales is exports, even domestic sales is through bank and fully verifiable, the purchases were fully verifiable, the accounts books and vouchers were produced during the assessment proceedings then there was no scope for raising questions on the account books of the appellant.*

(9) *That appellant finds support in the following rulings:*

CIT vs Simon Carves Ltd. (1976) 105 ITR212(SC)

The taxing authorities exercise quasi-judicial powers and in doing so they must act in a fair and nonpartisan manner. Although it is part of their duty to ensure that no tax which is legitimately due from the assessee should remain unrecovered, they must also at the same time not act in a manner as might indicate the scales are weighted against the assessee. It is impossible to subscribe to the view that unless those authorities exercise the power in a manner most beneficial to the revenue and consequently most adverse to the assessee, they should be deemed to have exercised it in a proper and judicious manner.

(10) *In a recent landmark decision, the Hon'ble Delhi High Court has dealt with the issue elaborately. In the case of **CIT vs Smt Poonam Rani [2010] 192 TAXMAN 167 (DELHI)**, wherein the Officer had rejected the books because of the quantitative variation in the weight of the output products as against input items, the High Court rejected the addition made on estimate basis because no defect was pointed out in the accounts and there was no basis for estimation. The observations of the High Court are reproduced as below:*

(i) *The Assessing Officer had not pointed out any particular defect or discrepancy in the account books maintained by the assessee. During the course of hearing before the Commissioner (Appeals), it was pointed out by the assessee that her account books were duly audited under Section 44AB of the Central Excise Act and the quantitative details as required by clause 28(b) of Form No. 3CD*

regarding raw material and finished products were prepared and audited by certified accountant and were enclosed with Form No. 3CD which had been placed on record.

(ii) As regards the marginal increase in the weight of the finished product, the explanation given by the assessee had been accepted not only by the Commissioner (Appeals) but also by the Tribunal. The Assessing Officer had no material before him on the basis of which it could be said that the weight of the wire did not increase even marginally during the process of enameling.

(iii) The fall in the gross profit ratio could be for various reasons such as an increase in the cost of raw material, decrease in the market price of finished product, increase in the cost of processing by the assessee, etc.

(iv) There was no finding that the actual cost of the raw material purchased by the assessee was less than what was declared in the account books.

(v) There was no finding that the actual cost of processing carried out by the assessee was less than what had been declared in her account books.

(vi) No particular expenditure shown in the account books had been disallowed by the Assessing Officer.

(vii) There was no finding by the Assessing Officer that the actual quantity of finished products produced by the assessee was more than what was shown in the account books.

(viii) There was no finding that the assessee had made any such sale of the finished products which was not reflected in the account books.

(ix) There was no finding by the Assessing Officer that the finished products were sold by the assessee at a price higher than what was declared in the account books.

(x) In those circumstances, the Commissioner (Appeals) and the Tribunal were justified in holding that the Assessing Officer could not have increased the gross profit ratio merely because it was low as compared to the gross profit ratio of the preceding year. (Emphasis supplied)

(xi) The revenue contended that the assessee was not maintaining the daily stock register. However, no such finding was found in the assessment order. On the other hand, the assessee had submitted before the Commissioner (Appeals) that Form No. 3CD containing all the quantitative details in respect of raw materials as well as the finished goods and duly audited by the certified accountant had been placed on record, but the Assessing Officer ignored those actual figures enclosed with the return. In any case, there is no statutory

provision under the income-tax regime requiring the assessee to maintain the daily stock register.

(xii) Hence, even if no such register was being maintained by the assessee, that, by itself, would not lead to the inference that it was not possible to deduce the true income of the assessee from the accounts maintained by her, nor the accounts could be said to be defective or incomplete for that reason alone.

(xiii) If the stock register is not maintained by the assessee, that may put the Assessing Officer on guard against the falsity of the return made by the assessee and persuade him to carefully scrutinize the account books of the assessee, but the absence of one register alone does not amount to such a material leading to the conclusion that the account books were incomplete or inaccurate.

(xiv) Similarly, if the rate of gross profit declared by the assessee in a particular period is lower as compared to the gross profit declared by him in the preceding year, that may alert the Assessing Officer and serve as a warning to him to look into the accounts more carefully and to look for some material which could lead to the conclusion that the accounts maintained by the assessee were not correct, but a low rate of gross profit, in the absence of any material pointing towards falsehood of the account books, cannot, by itself, be a ground to reject the account books under section 145(3). As clear from the above discussion, not only a proper reason for rejection of accounts is needed but it is equally important to base the estimation on solid facts. While low gross profit may prompt an investigation in respect of the assessee, it may not serve as a guide for estimation of gross margin in the current year.”

(11) That in view of above facts and rulings the Ld. A.O. was wrong in making addition of Rs.23,47,88,621 by adopting N.P. rate @4%.

Deduction u/s 80 IB (11A)

(12) That In the grounds of appeal it is wrongly claimed that documents regarding claim u/s 80IB (11A) were not filed. Ld. A.O. has allowed deduction u/s 80 IB (11A) at Rs.11,43,66,077 which was the original figure claimed by the appellant. Without prejudice to above submissions the deduction u/s should be worked out as per the assessed income instead of the one originally claimed by the appellant because the business income has been increased by the Ld. A.O. and the deduction u/s 80 IB is directly relatable to the business income. The present year being the 5th year of starting of operations by the company hence a deduction of 100% of eligible profit is allowable. This claim is made without prejudice to above submissions regarding other additions.”

8. Considered the rival submissions and material placed on record. We observed that the solitary issue raised by the Revenue is the deletion of NP by the Id. CIT (A). Assessee is in the business of meat exports and purchased the raw meat from various suppliers. From the record, we observed that assessee has purchased 99.67% through bank and only 0.33% through cash payment. The Assessing Officer observed that assessee has purchased huge meat from local vendors and he came up with a figure of Rs.12.04 crores in cash whereas Id. CIT (A) after verification found that the actual cash payment was only Rs.2.76 crores which is 0.33% of the total purchases. Since the assessee could not submit the above information, he proceeded to make the addition by observing GP and NP declared by the assessee during the year which is less compared to earlier assessment years i.e. from Assessment Years 2013-14 to 2016-17. Merely on the basis of these observations, he rejected the books of account and proceeded to make the net profit addition by arriving at the average NP of 4% and made the addition of the difference of 4% of the profit declared by the assessee. Further we observed that assessee is a unit claiming exemption u/s 80IB of the Act. On careful consideration, we observed that even if we consider the findings of the Assessing Officer to be correct, still the assessee is a unit claiming exemption u/s 80IB and any addition in NP will give rise to the exemption u/s 80IB of the Act since there was no other business

carried on by the assessee and also Assessing Officer has not brought on record any other activity made by the assessee. In that aspect also, the claim of the assessee can be allowed.

9. Further we observed that assessee has explained in detail the reasons for falling of profit during the year in comparison to previous assessment years. The same was appreciated by the Id. CIT (A) and even before us, assessee has submitted a detailed analysis at pars 5 & 6 of the written submissions. After considering the facts on record, we are inclined to agree with detailed findings of the Id. CIT (A).
10. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on this 6TH day of December, 2024.

**SD/-
(SUDHIR PAREEK)
JUDICIAL MEMBER**

**SD/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 06.12.2024
TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**