

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 5317/Del/2019
(Assessment Year: 2015-16)**

Meenakshi Saree Centre (P) Ltd, C/o. M/s. Raj Kumar & Associates, CAs, L-7A (LGF), South Extension, Part-II, New Delhi (Appellant) PAN: AAFCM9565J	Vs. DCIT, Circle-16(2), New Delhi (Respondent)
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Assessee by :	Shri Rajkumar Gupta, CA Shri J. P. Sharma, CA
Revenue by:	Shri Akhilesh Kumar Yadav, Sr. DR
Date of Hearing	02/12/2024
Date of pronouncement	10/12/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.5317/Del/2019 for AY 2015-16, arises out of the order of the Id. Commissioner of Income Tax (Appeals)-6, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. CIT(A),Delhi-6/10406/2017-18 dated 31.05.2019 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 25.12.2017 by the Assessing Officer, DCIT, Circle 16(2), New Delhi (hereinafter referred to as 'Id. AO').
2. The only issue to be decided in this appeal is as to whether the Id CITA was justified in confirming the addition made in the sum of Rs

1,00,39,611/- beingn 20% of difference of opening stock and closing stock figure.

3. We have heard the rival submissions and perused the materials available on record. The assessee during the year under consideration was engaged in the business of trading of sarees. It is a closely held company with two directors namely Shri Vinit Kumar Agarwal and Mrs Mohini Agarwal. Shri Vinit Kumar Agarwal was solely managing the company and his mother Mrs Mohini Agarwal was a housewife. At the age of 39 years, Shri Vinit Kumar Agarwal died in a road accident on 25-9-2014 relevant to the year under consideration. Thereafter, there was nobody who could look after the business of the assessee company as Mrs Mohini Agarwal, being a housewife was not having experience in business and hence decided to close down the business at the earliest possible time after selling the existing stock at whatever price it could fetch. Most of the stocks were sold after death in Assessment year 15-16 and the balance remaining stock of Rs. 68,18,547 was sold for Rs. 11,21,758 in Assessment year 16-17 i.e immediately succeeding assessment year.

4. After the death of Shri Vinit Kumar Agarwal, purchases have been made for Rs. 81.77 lakhs out of total purchases of Rs. 10.38 crores made during the whole year. It is not in dispute that predominant value of purchases was made up to 25-9-2014 i.e up to which period Shri Vinit Kumar Agarwal was alive. Even the purchases of Rs. 81.77 lakhs after the death of Shri Vinit Kumar Agarwal had to be made because the orders for the same were already placed when Shri Vinit Kumar Agarwal was alive and payments were made already. Practically the entire business of the assessee company came to a grinding halt after the death of Shri Vinit Kumar Agarwal. Hence, the assessee decided to sell the available stocks with it at a throwaway price which had effectively resulted in incurrence of

loss during the year under consideration. Accordingly, it was pleaded before the Learned AO by the assessee that the comparative figures of the performance during the year under consideration vis-a-vis the immediately preceding assessment year could not be made because of the special circumstances prevailing in Assessment year 15-16, namely the death of Shri Vinit Kumar Agarwal. Accordingly, it was explained that assessee company was justified in declaring loss in its trading of Sarees operations during the year under consideration even though profit of Rs. 17.64 lakhs was disclosed in Assessment year 14-15.

5. The Learned AO observed that assessee had not produced the stock inventory before him despite giving sufficient opportunities. Since in the immediately preceding year, the assessee had reported net profit of Rs 17.64 lakhs, the assessee was not justified in declaring loss during the year under consideration to the tune of Rs. 5.52 crores and accordingly he proceeded to ignore the contentions of the assessee company. The Learned AO observed that assessee was required to submit the complete details of inventory including purchase and valuation of closing stock. Since the assessee has failed to provide documentary proof of the change in inventory in the sum of Rs 5,01,98,058/- which was debited in the profit and loss account by the assessee company, the Learned AO proceeded to add a sum of Rs 1,00,39,611 being the 20% of same as income of the assessee. This action of the Learned AO was upheld by the Learned CITA.

6. At the outset, we find that assessee had furnished the audited financial statements before the Learned AO during the course of assessment proceedings. No discrepancies were found in the said audited financial statements or in the books of accounts produced before the Learned AO. The books of accounts and the book results produced before

the Learned AO were not rejected by the Learned AO in terms of section 145(3) of the Act. It was submitted by the Learned AR before us that since the books of accounts and the book results were not rejected by the Learned AO, the Learned AO ought not to have disturbed the trading results declared by the assessee company and in support of this proposition, he placed reliance on the decision of Hon'ble Punjab and Haryana High Court in the case of CIT vs Smt Santhosh Jain reported in 296 ITR 324 (P&H). It was also submitted by the Learned AR that the return was filed after declaring loss of Rs 5.38 crores and even after the additions made by the Learned AO, the assessed income still resulted in a loss of Rs 4.19 crores. Hence there could not be any malafide that could be attributed to the assessee in the instant case. The assessee had a genuine difficulty because of the death of the managing person Shri Vinit Kumar Agarwal during the year under consideration which had led to the gross decline in the trading results. We find that the aforesaid facts were not controverted by the revenue before us. In any event, we find that the addition of Rs. 1,00,39,611 has been made by the Learned AO by calculating 20% of the difference in value between opening stock and closing stock of inventory. In our considered opinion, this addition has got absolutely no basis and does not draw support from any of the accounting principles or any of the provisions of the Act. If at all the Learned AO desires to disturb the trading results, he should have first found deficiencies in the book results submitted by the assessee, reject the books of accounts and book results in terms of section 145(3) of the Act and thereafter should have proceeded to estimate the trading profit of the assessee company. None of these actions were done by the Learned AO in the instant case. Hence, we hold that the revenue had not made any case for justifying the addition made by the Learned AO which stood by the confirmed by the Learned CITA. Hence, we hereby direct the Learned

AO to delete the addition made in the sum of Rs 1,00,39,611.
Accordingly, the ground raised by the assessee is allowed.

7. In the result, the appeal of the Assessee is allowed.

Order pronounced in the open court on 10/12/2024.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated:10/12/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi