

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.156 & 157/Nag./2024
(Assessment Year : 2018-19 & 2019-20)

Shri Sachin Shankar Agnihotri
0, Bapuji Wadi Ramnagar
Wardha 442 001 PAN – AEUPA4206N

..... Appellant

v/s

Asstt. Commissioner of Income Tax
Central Circle-2(1), Nagpur

..... Respondent

Assessee by : Ms. Alfia Rozie
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 04/12/2024

Date of Order – 20/12/2024

ORDER

Captioned appeal by the assessee is against the impugned orders of even date 17/01/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2018-19 and 2019-20.

2. Since the issue raised by the assessee in both these appeals are common, except variation in figures, therefore, as a matter of convenience these appeals were heard together and are being disposed off by way of this consolidated order. The common ground raised by the assessee in both the years under consideration is as under:-

"1. Whether on the facts and circumstances of the case, the learned Commissioner of Income Tax appeals was justified in enhancing the gross profit ratio from 8% as estimated by the Assessing Officer to 25% while passing the appellate order, without providing a rationale for doing so.

2. The appellant craves leave to add or alter any other grounds that may be taken at the time of hearing."

3. I have heard both the sides, perused the records and gone through the order passed by the authorities below. I find that the Assessing Officer estimated the income of the assessee @ 8% and accordingly the assessment was completed. On appeal, the learned CIT(A) enhanced the estimation made by the Assessing Officer from 8% to 25% without issuing notice to the assessee. According to me, if at all the learned CIT(A) wanted to enhance the income assessed by the Assessing Officer, it was mandatory for the learned CIT(A) to issue notice to the assessee. In this case, no such notice was issued by the learned CIT(A) to the assessee. Apart from this, I also find that the estimation made by the Assessing Officer @ 8% is found to be reasonable and no enhancement was required by the learned CIT(A) further. Accordingly, the addition made by the Assessing Officer has to survive. In view of the above, I set aside the impugned order passed by the learned CIT(A) and delete the enhancement made by the learned CIT(A) by upholding order passed by the Assessing Officer for the assessment year 2018-19 and 2019-20.

4. In the result, appeals filed by the assessee for the assessment year 2018-19 and 2019-20 are partly allowed.

Order pronounced in the open Court on 20/12/2024

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur