

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH
PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI G D PADMAHSHALI ACCOUNTANT MEMBER

I T A. Nos. 190/PAN/2023
(A.Y. 2014-15)

T And D Petro Services , Plot.No.8/2 B,Saligao, Bardez Goa-403511, Goa.	Vs	ITO-Ward-2(3), Aayakar Bhavan, Panaji, Goa-403001.
PAN .No. AAHFT4732H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri S J Kamat.AR
Revenue by	Shri.Narendra Reddy.Sr.DR

सुनवाई की तारीख/Date of Hearing	07.01.2025
घोषणा की तारीख/Date of Pronouncement	10.01.2025

ORDER

PER PAVAN KUMAR GADALE, JM:

The appeal is filed by the assessee against the order of ADDL/JCIT(A) passed u/sec 143(3) and u/sec 250 of the Act. The assessee has raised the grounds of appeal challenging the order of the CIT(A) sustaining the addition made by the Assessing Officer.

2. The brief facts of the case are that, the assessee is a partnership firm and is engaged in the business as dealer in petroleum products. The assessee has filed the return of income on 28-11-2014 disclosing a total income of Rs.3,00,950/-. Subsequently the case was selected for

limited scrutiny under CASS and the notice u/sec143(2) and u/sec 142(1) of the Act along with questionnaire are issued. In compliance, the Ld.AR of the assessee appeared from time to time and submitted the information and details. The Assessing Officer (AO) on perusal of financial statements and information find that the assessee has made provision of Rs.1,19,750/- in the current liabilities in the balance sheet and on verification the details, there is excess provision to the extent of Rs.4500/- and was disallowed. And on the second disputed issue, the A.O found that the the assessee on the three occasions in the F.Y.2013-14 in the stock register of motor spirit has not entered the details of petrol & diesel to the extent of 15000 Litres and the assessee was called to reconcile/explain the difference, Since the information was not substantiated, the A.O has made addition of suppression of sales valued at Rs.8,85,326/- and finally assessed the total income of Rs.11,90,778/- and passed the order u/sec 143(3) of the Act dated 6.12.2016.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and granted partial relief and sustained balance of Rs.8,64,744/- and partly allowed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the A.O overlooking the facts and submissions of the assessee in the proceedings. Further the Ld.AR emphasized that the assessee in response to notices has submitted the explanations along with the details of purchases with the quantitative details which are genuine. The Ld. AR emphasized that the transactions entered by the assessee are disallowed by the revenue authorities without proper inquiry though the assessee has substantiated with material evidences/information of rectification of entries of stock in puts before the lower authorities and the Ld.AR supported the submissions with the paper book and prayed for allowing the appeal. Per Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The Ld.AR submitted that the CIT(A) has erred in sustaining the disallowance overlooking the submissions and the Assessing Officer has not doubted the genuineness of claim of expenditure/ purchases but has made addition in the absence of entries in the stock register but in the end of the year, the transactions were rectified and the quantitative details of purchases and sales are tallied. The Ld.AR demonstrated the invoice copies of motor spirit and explained the quantity purchase and value placed at page 1&2 of the paper book, further the daily record of quantity of stock pertaining to two months i.e. October 2013 and February 2014 in the specific format was highlighted

at page 4 to 11 of the paper book. The Ld.AR submitted that the gross profit margin/element in the motor spirit I.e Diesel & Petrol business range between 2% to 3% and both the revenue authorities has over looked the factual aspects of the purchase transactions substantiated with material evidences filed in compliance to the notices. The Ld.AR highlighted the clauses of Tax Audit report in Form. no 3CD in particular clause 35(a) and 40. We considering the facts, circumstances, gross profit margin, and omission of entries by the assessee and to meet the ends of justice, restrict the addition @ 5% of the purchase transactions. Accordingly, we set-aside the order of the CIT(A) and direct the assessing officer to estimate the income@5% of disputed purchase value. Further we make it clear that, this estimated percentage is applicable only to this Assesment year. And we partly allow the grounds of appeal in favour of the assessee.

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

Order pronounced in the open court on 10.01.2025.

Sd/-
(GD PADMAHSHALI)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Panaji Dated: 10/01/2025

Copy of the Order forwarded to:

1. The Appellant,
 2. The Respondent
 3. The CIT(A)-
 4. CIT
 5. DR, ITAT,
 6. Guard file.
- //True Copy//

BY ORDER,
(Asstt. Registrar)ITAT,
Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			