



IN THE INCOME TAX APPELLATE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER  
AND  
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.102/GTY/2024  
निर्धारण वर्ष / Assessment Year: 2018-19

Lotus Broiler Farming Division, House No. 14, House of Somen Gogoi, Main Road, Champak Nagar, Barsajai, Guwahati-781028, Assam PAN : AADFL9788K	<b>Vs.</b>	ACIT, Central Circle-1, Guwahati, Assam
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by:	Shri Sanjay Mody, FCA
Department by:	Shri Soumendu Sekhar Das, JCIT
Date of hearing:	18.11.2024
Date of Pronouncement:	20.01.2025

**आदेश / ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The captioned appeal pertaining to Assessment Year 2018-19 at the instance of assessee is directed against the order dated 13.03.2024 passed by CIT(A), Central NER, Guwahati u/s.250 of the Income-tax Act, 1961 (in short 'the Act') which in turn is arising out of Assessment Order dated 25.04.2021 passed u/s.143(3) of the Act.



2. Succinctly, the facts of the case are that the assessee is a partnership Firm engaged in the business of Contract Farming of chicks which include provision of day-old chicks, feed, medicine, vaccine and Technical Support. Income of Rs.1,67,58,320/- was disclosed in the return for the A.Y. 2018-19. Survey action u/s.133A conducted in the case of assessee on 15.02.2018 followed by selection of case for Complete Scrutiny and validly serving of statutory notices u/s.143(2)/142(1). Based on the details furnished by the assessee, the Assessing officer noticed that the assessee made payments of Rs.1.00 lakh to Dr. Khanjit Medhi and Rs.40,000/- to Mr. Niranjana Das. Ld.AO issued show cause notice requiring the assessee to explain as to why said payments made to the above parties should not be disallowed u/s.40A(3) of the Act. In response, the assessee explained that the expenditure in question was paid to them for meeting the expenditure on account of travelling, halting food etc. and personal withdrawals which were accounted for in the books of account. In the absence of any documentary evidence by the assessee substantiating the claims, ld. AO made addition of Rs.1,40,000/- invoking the provisions of section 40A(3) of the Act. Ld. AO also made addition of Rs.74,284/- on account of reduction of net profit percentage.



3. Aggrieved assessee preferred appeal before the Id.CIT(A) who vide impugned order dismissed the appeal of the assessee by holding as under :

*“6.3. Decision on Ground(s) of Appeal No(s), 6 :*

*The Appellant contended that the AO erred in adding Rs. 40,000/- under Section 40A(3) in respect of payment made to one Mr Niranjan Das. The Appellant relied on certain case laws and stated that the expenditure should be allowed since the same was not debited to the Profit & Loss Account. The AO's conclusion was based on the books of account impounded during the survey. The Appellant failed to furnish the details of actual expenditure incurred by the person receiving the impugned amount and the subsequent accounting treatment. The Appellant did not furnish any documentary evidence to substantiate its claim. Thus, the addition of Rs. 40,000/- is hereby confirmed.*

*The Appellant also stated that addition u/s 40A(3) of Rs. 1,00,000/- was not justified since the said payment was made on behalf of one of the partners of the firm and debited to his capital account. However, no documentary evidence was furnished to substantiate its claim. There is no information regarding the composition of the partnership-firm either. In such circumstances, the addition needs to be confirmed and thus, the amount of Rs. 1,00,000/- is also confirmed. Ground No. 6 is dismissed accordingly.*

*6.4. Decision on Ground(s) of Appeal No(s), 7 :*

*The Appellant contended that the AO was not justified in making an addition of Rs. 74,284/- on account of fall in Net Profit ratio during the relevant year in comparison to the earlier year. It is pertinent to note that the appellant declared additional income due to survey action in the year under consideration but the NP ratio has decreased. The Appellant did not furnish any details of survey or the statements recorded. The Appellant should have explained the basis of declaring additional income and its impact on Net profit with respect to expenditure and turnover. Infact, it is a common*



*finding that NP ratios of Assessee increase for the year of survey / search actions. In the Appellant's case, the ratio has decreased and the reasons are not verifiable with the information available on record. The case laws quoted have not been supplanted with the facts of the instant case and so, the applicability is not clear. No documentary evidence has been furnished by the Appellant to justify the reduction in Net Profit ratio. Hence, the addition of Rs. 74,284/- is upheld. Ground No. 7 is dismissed accordingly.”*

4. Now the assessee is in appeal before the Tribunal.
5. Ld. Counsel for the assessee submitted that although the assessee has submitted the relevant documentary evidences before the AO in pursuance to notice u/s.142(1) of the Act but the authorities below have not considered the same. Further, it is submitted that the AO has not rejected the books of accounts. Given an opportunity, the assessee is in a position to substantiate his claim. It is therefore prayed for restoring the issues to the file of ld.CIT(A).
6. On the other hand, ld. Departmental Representative vehemently argued supporting the orders of the lower authorities.
7. We have heard the rival contentions and perused the record placed before us. In the instant case, we find the AO made couple of additions pursuant to survey operations conducted in the case of assessee u/s.133A of the Act based



on the documents impounded during the said survey. The authorities below have dismissed the appeal of the assessee on the ground that the assessee has not furnished any documentary evidence/details to justify the payments made in contravention of section 40A(3) of the Act and for reduction in the Net Profit ratio. Before us, Ld. counsel for the assessee referring to the documents submitted before the AO has successfully demonstrated that the assessee has infact submitted relevant documentary evidences but the authorities below have brushed aside those evidences and decided against the assessee. The fact remains that the authorities have not rejected the books of account of the assessee as well. Considering the facts and circumstances prevailing in the instant case, we in the interest of justice, deem it proper to restore the issues on merit to the file of ld.CIT(A) for *denovo* adjudication after considering the documentary evidences filed by the assessee and if needed can call for the remand report. Assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the ld.CIT(A) shall be free to proceed in accordance with law. Finding of the ld.CIT(A) is set aside and effective grounds of appeal raised by the assessee are allowed for statistical purposes.



8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 20<sup>th</sup> day of January, 2025.

Sd/-

Sd/-

**(MANOMOHAN DAS)**  
**JUDICIAL MEMBER**

**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

दिनांक / Dated : 20<sup>th</sup> January, 2025

*Satish*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “, Guwahati” बेंच,  
/ DR, ITAT, Guwahati Bench
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar