

**JIN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 393/Coch/2024
Assessment Year : 2018-19

M/s. GMA Pinnacle Automotives Pvt. Ltd., NH47, Opposite Muttom Metro Station, Thaikkattukara, Aluva, Ernakulam – 683 106. PAN: AAGCG4649G	Vs.	CIT/Addl./Joint/Deputy/ Assistant Commissioner of Income Tax, National E-Assessment Centre, IS Press Road, Kochi.
APPELLANT		RESPONDENT

Assessee by	:	Sri.P.T.Joy, CA
Revenue by	:	Smt.Leena Lal, Sr.AR

Date of Hearing	:	03-02-2025
Date of Pronouncement	:	23-04-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 18/03/2024 in respect of the A.Y. 2018-19.

2. The assessee is a dealer of automobiles and also engaged in the business of retail sales and service of the vehicles apart from the sale of spare parts / accessories. The assessee filed their return of income on

22/09/2018 and the same was processed u/s. 143(1) of the Act. Thereafter the return of income was selected for scrutiny assessment under CASS and notices were issued for which the assessee filed their reply along with the necessary supporting documents. The AO made the assessment u/s. 143(3) of the Act in which the AO had made additions / disallowances. The AO had estimated the gross profit at 6.08% and made the addition on this core. Similarly, the AO had disallowed the expenses u/s. 40(a)(ia) of the Act since no TDS was effected by the assessee while paying the incentives to their staff. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and filed the written submissions and documentary evidences on 11/03/2024. The Ld.CIT(A) without considering the various documents filed before him, had rejected the contention of the assessee that the gross profit adopted is not correct, but reduced the gross profit to 6% as against the gross profit adopted by the AO at 6.08%. Insofar as the disallowance made u/s. 40(a)(ia) of the Act, the Ld.CIT(A) had accepted the case of the assessee and deleted the said addition. Now the assessee is challenging the order of the Ld.CIT(A) regarding the adoption of gross profit.

3. At the time of hearing, the Ld.AR submitted that the Ld.CIT(A) had not considered the documents marked annexures 2,3 and 5 before confirming the gross profit at 6% and therefore the order of the Ld.CIT(A) is not a well considered order. The Ld.AR further submitted that if the Ld.CIT(A) had considered the said documents, he could have accepted the claim made by the assessee and therefore prayed to set aside the order of the Ld.CIT(A). The Ld.AR also furnished the copies of the annexures filed before the Ld.CIT(A) and prayed to allow the appeal.

4. On the other hand, the Ld.DR submitted that the authorities below had passed a very reasoned order and requires no interference.

5. We have heard the arguments of both sides and perused the materials available on record.

6. We have also gone through the order of the Ld.CIT(A) and in the order, the Ld.CIT(A) had considered the annexure 4 alone while passing the order. Even though the assessee had filed the annexures 2, 3 and 5, the Ld.CIT(A) had not at all discussed about the said documents while considering the issue of the rate of tax. Therefore the contention raised by the assessee that the order of the Ld.CIT(A) is not a speaking order seems to be a reasonable one.

7. In such circumstances, we are setting aside the order of the Ld.CIT(A) and remitting the same to the file of the Ld CIT with a direction to consider the documents filed by way of annexures and pass a speaking order. While deciding the appeal, the assessee may also be heard.

8. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 23rd April, 2025.

Sd/-
(INTURI RAMA RAO)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Cochin,
Dated, the 23rd April, 2025.
/MS /

Copy to:

- | | |
|---------------|---------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Cochin |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Cochin