

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपीलसं./ ITA No. 212/Agr/2015
(निर्धारणवर्ष / Assessment Year:2010-11)

M/s. Varun Exports Near Shivji Mandir, Balkeshwar Road, Agra.	बनाम/ Vs.	DCIT – 4(1), Agra
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAFFV-2614-J		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Deependra Mohan, CA – Ld. AR
प्रत्यर्थीकीओरसे/Respondent by	:	Sh. Shailender Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/Date of Hearing	:	20-02-2025
घोषणाकीतारीख /Date of Pronouncement	:	22.04.2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2010-11 arises out of an order passed by learned Commissioner of Income Tax (Appeals)-II, Agra [CIT(A)] on 26-02-2015 in the matter of an assessment framed by Ld. AO u/s143(3) on 21-03-2013. Having heard rival submissions, our adjudication would be as under. The assessee is stated to be engaged in manufacturing and sale of footwear. The assessee was subjected to survey u/s 133A on 14-09-2009 based on which impugned assessment has been framed. During survey, the assessee surrendered additional income of Rs.1.50 Crores which was later on retracted.

2. The Ld. AO noted that there was reduction in turnover from Rs.24.52 Crores to Rs.20.86 Crores as against anticipated turnover of Rs.31 Crores. The physical stock during survey was found to be much

less than book stock to the extent of Rs.798.18 Lacs. Applying Gross profit Rate of 20.19%, Ld. AO made addition of Rs.161.15 Lacs.

3. During first appeal, the assessee's submissions were subjected to remand proceedings wherein the assessee challenged the inventory of stock as prepared by the survey team. The assessee stated that he was exporter and therefore, it could not make any unaccounted sales as alleged. It was also pleaded that survey statement would not have any evidentiary value. The assessee also furnished working to show that closing stock as on 30-09-2009 was for Rs.11.39 Crores. The assessee, in the alternative, stated that only finished stock could be sold and not the raw material. The stock of finished goods was less by Rs.89.78 Lacs on which profit could be estimated. The Ld. CIT(A), after due consideration of assessee's submission as well as remand report, reached a conclusion that there was no evidence that the raw material was sold in the market and out of books income was earned by the assessee. The shortage of raw material indicate out of books manufacturing only.

4. In the above background, Ld. CIT(A) proceeded to estimate unaccounted sales as made by the assessee. There was shortage of finished goods for Rs.89.78 Lacs on which Ld. CIT(A) applied Gross Profit rate of 20.91% and estimated addition of Rs.22.71 Lacs. The out of books production as made by the assessee was valued at Rs.184.36 Lacs on which same GP rate was applied and additional income was estimated at Rs.46.64 Lacs. The total addition was thus restricted to the extent of Rs.69.35 Lacs and remaining addition was deleted. Aggrieved, the assessee is in further appeal before us.

5. Upon perusal of factual matrix, it could be seen that the assessee was subjected to survey wherein physical stock of finished goods as well

as raw material was found to be less than the book value. The assessee surrendered income of Rs.1.50 Crores but later on retracted from the same. It is trite law that admission made during the course of survey proceedings do not bind the assessee and it would be incumbent upon Ld. AO to corroborate the findings with some other material evidences to make addition in the hands of the assessee. Secondly, the valuation of stock would be a subjective valuation since the assessee is engaged in manufacturing activity of footwear which would require various raw materials and there would be some work-in-progress also. Pertinently, the assessee is predominantly an export entity. There may be wastage / extra consumption of raw material during manufacturing process which could not be estimated with precise accuracy. Under these circumstances and for ease of computations, we direct Ld. AO to apply Gross Profit Rate of 10% instead of 20.91% as adopted by Ld. CIT(A) while working out additional income on finished goods as well as on raw material. No other interference is required in the impugned order.

6. The appeal stands partly allowed.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

(SATBEER SINGH GODARA)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 22.04.2025

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA