

**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. 321/Agr/2015**  
**(निर्धारणवर्ष / Assessment Year:2010-11)**

ACIT, Circle -3 Gwalior.	बनाम/ Vs.	Shri Naveen Gupta and Associates A-15, Maharajpura, Gwalior.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AAIFN-0745-P</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Sh. Shailender Shrivastava – Ld. Sr. DR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	None

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

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment Year (AY) 2010-11 arises out of an order passed by learned Commissioner of Income Tax (Appeals), Gwalior [CIT(A)] on 03-04-2015 in the matter of an assessment framed by Ld. AO u/s143(3) on 22-03-2013. At the time of hearing, none appeared for assessee. The Ld. Sr. DR advanced arguments. After due consideration thereof, our adjudication would be as under. The sole subject matter of appeal is estimation of income on suppressed sales.

2. From the findings of Ld. CIT(A), it emerges that the assessee has carried out liquor business. The assessee paid prescribed fee to the government to take delivery of the material which was to be sold before the end of the licensed period. If the material is not sold during licensed period, the assessee would be in possession of unsold stock and face

huge losses. In such a situation, the assessee had to sell the goods even at discounted rates which would ultimately reduce its profits. The Ld. AO, applying higher profit rate, computed suppressed sales for Rs.185.17 Lacs and added the same to the income of the assessee in its entirety. However, Ld. CIT(A) held that entire suppressed sales could not be taxed as income in terms of various judicial decisions. It would be reasonable to estimate the income of 3% of total purchase cost as debited by the assessee. The same worked out to be Rs.38.01 Lacs as against Rs.34.66 Lacs as declared by the assessee. Accordingly, impugned addition was restricted to the extent of Rs.3.34 Lacs. Aggrieved, the revenue is in further appeal before us.

3. It is quite discernible that the assessee has sold several variants of liquor but it did not maintain separate data. The Ld. AO opined that Gross profit and Net profits were on lower side. Accordingly, Ld. AO worked out alleged suppressed sales and added the same in its entirety to the income of the assessee. However, entire sales could not be held to be the income of the assessee. Therefore, we concur with the adjudication of Ld.CIT(A) that only profit element embedded in such alleged suppressed sales could be brought to tax. The estimation of Ld. CIT(A), in our opinion, is quite correct and the same, therefore, would not require any interference on our part.

4. The appeal stands dismissed.

*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