

**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**

**आयकरअपील सं. / ITA No.193/Agr/2019**  
**(निर्धारणवर्ष / Assessment Year: 2009-10)**

<b>Shri Sumit Kumar Agarwal</b> Prop. M/s. Rajshree Marketing Mania Wali Gali, Dal Bazar, Lashkar, Gwalior.	<b>बनाम/ Vs.</b>	<b>Income-tax Officer,</b> Ward 2(3), Gwalior.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AEUPA-8915J</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Sh. Ashok Vijaywargiya, CA – Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Sh. Shailender Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	18-02-2025
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	23-04-2025

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2009-10 arises out of the order of learned Commissioner of Income Tax (Appeals), Gwalior [CIT(A)] dated 25-03-2019 in the matter of an assessment framed by Ld. AO u/s 143(3) of the Act on 13-12-2011 making various additions in the hands of the assessee. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

2. During hearing, Ld. AR did not press for ground nos. 5 to 9. In the remaining grounds, the grievance of the assessee is – (i) Addition u/s 68 for Rs.211.97 Lacs; (ii) Addition of alleged undisclosed sales for Rs.47.38 Lacs, Rs.3.50 Lacs and for Rs.13.59 Lacs.

The assessee is stated to be engaged in trading of dairy products on wholesale basis.

### **3. Addition u/s 68 for Rs.211.97 Lacs**

3.1 The assessee received advanced from customers against future sales. The advances were adjusted against subsequent sales. In support, the assessee furnished cash memo receipts. However, Ld. AO added the same u/s 68 for want of sufficiency of documents. The Ld. CIT(A) confirmed the addition on the ground that the assessee failed to establish the identity, creditworthiness and genuineness of the transactions. The assessee failed to provide complete details of customers as well as confirmations. Aggrieved, the assessee is in further appeal before us.

3.2 It could be seen that the assessee is engaged in trading activity. The assessee has received advances from 46 customers on various dates and within a short time, the assessee has made sales to all these customers. In other words, the advances have been adjusted against subsequent sales. Pertinently, the sales turnover has not been disturbed by Ld. AO as against the fact that the assessee has maintained complete quantitative details of trading items. The stock has moved out by way of sales. The sales turnover has been offered for taxation and adding these advances would tantamount to double addition which is impermissible. The field enquiries have been conducted after several years and it was quite possible that the assessee was unable to furnish confirmation from these customers at a later point of time. On these facts, the impugned addition could not be sustained. By deleting the same, we allow the corresponding grounds.

#### **4. Addition of alleged undisclosed sales**

4.1 It was noted by Ld. AO that the assessee reflected sale of Milk & Ghee at sale price which was much below the purchase price. The assessee stated that the goods were sold at prices as negotiated with the customers. However, Ld. AO worked put average sale price and average purchase price and made addition of Rs.47.38 Lacs against suppressed sale of Ghee (Kilogram / Tin Packing). Similar addition of Rs.3.50 Lacs was made for Ghee (Kilogram / Liter Packing) and another similar addition of Rs.13.59 Lacs on sale of Milk Powder was made. The Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us.

4.2 We find that this addition is more on statistical inference. The Ld. AO has merely computed average sales price with average purchase price without considering the fact that the assessee was dealing in perishable commodities. Considering the nature of trading stock, it was quite possible that the assessee was forced to sell the stock at lower prices. The assessee has maintained complete quantitative details of trading stock which has not been doubted. We also find that this addition has been made without conducting any concrete enquiry and by bringing on record corroborative evidence to support the allegation of suppressed sales. Not even a single instance has been shown to establish that the sale price as charged by the assessee was not the actual negotiated prices. This being so, the impugned additions are liable to be deleted. We order so.

5. The appeal stand partly allowed.

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

Sd/-

Sd/-

**(SATBEER SINGH GODARA)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 23-04-2025

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA