

आयकर अपीलीय अधिकरण
पटना पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री जॉर्ज माथान, न्यायिक सदस्य
एवं
श्री रakesh मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 717/PAT/2024
Assessment Year: 2021-22**

Mahendra Prasad (Appellant)	Vs.	Assessment Unit, ITD, Delhi (Respondent)
PAN: AFDPP6680D		

Appearances:

Assessee represented by : None.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : April 8th, 2025

Date of pronouncing the order : May 20th, 2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2021-22 dated 28.10.2024, which has been passed against the assessment order u/s 144/144B of the Act, dated 18.12.2022. None appeared on behalf of the assessee therefore, the appeal was heard with the assistance of the Ld. DR.



2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

- “1. For that the orders of the Authorities below are bad in law and facts.*
- 2. For that the learned CIT(A) is not justified in passing the ex-parte order, particularly when the adjournment petition was filed.*
- 3. For that the appellant was quite unwell during this period and was not able to approach his counsel for preparation of submission. Copy of his last discharge slip for admission to hospital at Patna is enclosed and he was not able to travel even after discharge. Adjournment petition should not have been rejected in these circumstances.*
- 4. For that the learned A.O. is not justified in invoking the provision of section 145(3) and rejecting the books of account, even in an ex-parte order.*
- 5. For that the facts and circumstances of the case do not call for rejection of books of accounts and estimation of net profit both under trading and transport business.*
- 6. For that learned A.O. has grossly erred in making an estimate of 8% of the turnover, taking the figure from section AD, when the section is not applicable, and the accounts are duly audited.*
- 7. For that the addition of Rs.11,11,023/- on account of estimation of profit in wholesale trading business of kerosene oil is wholly unjustified, since the sale price is controlled and it is not correct to say that purchases are not verifiable.*
- 8. For that the estimation of net profit in transport business and addition of Rs. 13,76,423/- is not justified and also not in accordance with the trend of profit in the similar business.*
- 9. For that disallowance of Rs.62,906/ u/s 80C of the I.T. Act and Rs.72,094/- u/s 24(b) should not have been made as the evidences for claiming deduction are in possession of the appellant.*
- 10. For that in the facts and circumstances of the case, the appellant may kindly be given one more opportunity to justify the income as per the return.*
- 11. For that, other grounds, if any, will be urged at the time of hearing.”*

3. Brief facts of the case are that the assessee is an individual and had filed the return of income in ITR-3 u/s 139(1) of Act on 26.12.2021 declaring total income of Rs. 67,28,730/-. The assessee had declared income of Rs. 64,13,266/- under the head "Profits and Gains from



Business or Profession" and income of Rs. 5,00,466/- under the head "Income from Other Sources". The assessee had offered logistics services (transport) to the Bihar State Food & Civil Supplies Corporation Ltd. in Motihari and the Bihar State Warehousing Corporation in Patna, in addition to engaging in wholesale trading of unspecified products but which is stated to be Kerosene as per the grounds of appeal. The assessee had maintained two distinct profit and loss accounts for these two businesses. The assessee had also claimed deduction of Rs. 1,12,906/- under chapter VI-A and deduction of Rs. 72,094/- u/s 24(b) of the Act. Subsequently the case of the assessee was selected under Computer Assisted Scrutiny Selection (CASS) for complete scrutiny. On perusal of the details, the Assessing Officer (hereinafter referred to as Ld. 'AO') found that the assessee had declared total sales of Rs. 2,03,22,297/- and had debited purchases of Rs. 1,83,88,116/- in the profit & loss account and had arrived at net profit @2.2% of turnover only. Therefore, to verify the genuineness of PBDIT, major expenses viz. purchases were taken by the Ld. AO for verification. The assessee was specifically asked via notices issued u/s 142(1) of the Act to furnish the details of party-wise purchases made during the year. The assessee was also requested to furnish the confirmation ledger, copy of ITR-V of the suppliers and copy of any one invoice/bill raised by each vendor. However, the assessee failed in furnishing any such details. Therefore, the Ld. AO concluded that expenses on account of purchases remained unsubstantiated and unverified. Further, on perusal of the audit report and ROI, it was observed that no details of principal items purchased had been given. Also, there was no mention of the stock register in the column of books of account in the audit report whereas the assessee had shown huge closing stock valued at cost. When no record of stock was maintained, the issue as to how the assessee had valued closing



stock and declared in audited financials & the return of income remained unanswered. The assessee was also requested to submit the bank account statements, cash book etc. so that genuineness of the transactions could be verified. However, after being given repeated opportunities as mentioned above, the assessee had not submitted any details. Thus, the Ld. AO observed that the assessee had failed in proving the creditworthiness of the suppliers and genuineness of the transactions, the onus of which lay upon the assessee. In this scenario, the Ld. AO was of the view that the manipulation of books of account could not be ruled out and the correctness or completeness of the books of account could not be relied upon. Therefore, the books of account of the assessee were rejected as per provisions of section 145(3) of the Act and net profit from wholesale trading of other product of the assessee was estimated by the Ld. AO @ 8% of the sale of Rs. 2,03,22,297/- i.e. Rs. 16,25,783/-. Further, under logistics services business, it was noted that the assessee had shown gross receipts of Rs. 9,17,61,607/- and had debited various expenses of Rs. 8,57,97,102/- to the profit & loss account to derive net profit @ 6.5% of turnover. Therefore, to verify the genuineness of PBDIT, major expenses viz. Fuel Expenses, Hire Charges, Loading and Unloading Charges and Repair and Maintenance Expense needed to be verified. The assessee was asked to submit the bank account statements, cash book etc. so that genuineness of transactions and violation of section 40A(3) of the Act could be verified. However, after being given repeated opportunities as mentioned above, the assessee did not submit any such details. Therefore, the books of account of the assessee were rejected as per the provisions of section 145(3) of the Act and since the expenses could not be verified due to failure of the assessee in furnishing the details, therefore, net profit from Logistics Services (transport) of assessee was estimated by the AO @ 8%



of the sale of Rs. 9,17,61,607/- i.e. Rs. 73,40,928/-. Accordingly, the Ld. AO made addition of Rs. 25,53,445/- (1625783+7340928-6413266) to the business income of the assessee. Further, on perusal of the return of income, it was seen that the assessee had claimed deduction of Rs. 62,906/- u/s 80C of the Act. However, the assessee failed to submit the documentary evidences to justify the deductions claimed. Therefore, deduction of Rs. 62,906/- claimed under chapter VI-A of Act was denied. Further, on perusal of the return of income, it was seen that the assessee had claimed deduction of Rs. 72,094/- as 'Interest payable on borrowed capital' u/s 24(b) of the Act. However, the assessee had also failed to submit the documentary evidences to justify the deductions claimed by him. Therefore, deduction of Rs. 72,094/- claimed u/s 24(b) of the Act was also denied and added back to the returned income. The Ld. AO assessed the total income of the assessee at Rs. 94,17,175/- u/s 144 r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who vide order dated 28.10.2024 dismissed the appeal of the assessee after observing as under:

“6.0 Considering the discussions in the above paragraphs, I am of the firm opinion that the grounds raised by the assessee in the appeal are factually and legally weak. It is evident that the Assessing Officer acted within his jurisdiction to apply an 8% profit margin for both the wholesale trading and transport businesses of the assessee. This estimation is firmly grounded in industry standards, which typically range from 6% to 10% for similar operations, thereby validating the AO's decision as not only reasonable but also necessary given the complete lack of substantiating evidence from the assessee. Further the denial of deduction by the AO is justified in absence of details which the assessee failed to submit before the AO as well as during the appellate proceedings. Thus, the order of the AO is therefore upheld as both fair and reasonable.

7.0 Hence based on the above discussion I uphold the assessment order passed by the AO and find no merit in the grounds raised by the appellant.

8.0 In result, the appeal is dismissed.”



4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before this Tribunal.

5. As regards the rejection of books of account, the requisite details were not filed before the Ld. AO and the financial records submitted were not reliable as has been held in para 5.1 of the order of the Ld. CIT(A) and without complete books of account and supporting documents, the Ld. AO estimated the income which was justified while passing order u/s 144 of the Act. During the appeal before the Ld. CIT(A), the assessee did not provide additional documentation, written submission or evidence to challenge the Ld. AO's estimated margin or to justify lower rate. Therefore, the Ld. AO's estimation of 8% rate was treated as fair even though section 44AD of the Act is not applicable in the case of the assessee. Before us, it was submitted that the assessee deals in kerosene and other items which are controlled commodities. As regards transport business, the same was treated to be excessive before the Ld. CIT(A) but the Ld. CIT(A) sustained the addition on the basis of application of 8% profit rate. The deduction u/s 80C and 24(b) of the Act required verifiable documentary support and despite repeated requests, the assessee provided no evidence justifying the disallowance therefore, the same was confirmed and the appeal of the assessee was dismissed by the Ld. CIT(A).

6. Before us, it was submitted as per the ground of appeal that since the item in which the assessee deals are controlled items, mainly Kerosene oil, therefore, the application of net profit rate of 8% is highly excessive. Further, the Ld. AO has not given any comparable case or the details of industry standard for the profit margin estimated. We have considered the submissions made and find justification for the same. The assessee had shown 2.2% net profit rate which in the absence of



requisite record was liable to be not accepted. Considering the totality of facts, the business being wholesale trading of Kerosene oil, the net profit rate of 8% applied is found to be excessive and, therefore, a reasonable net profit rate of 2.5% instead of 2.2% shown by the assessee and 8% applied by the Ld. AO is directed to be applied by the Ld. AO on the total turnover of Rs. 2,03,22,297/- as regards the wholesale business of the assessee for sale of Kerosene oil and the net profit thus works out to Rs. 5,08,057/- which is estimated as the net profit in place of net profit of Rs. 16,25,783/- estimated by the Ld. AO with consequential relief to the assessee.

7. As regards the income from logistics services, the Bench was of the view that net profit rate of 7% is justified to be applied instead of 8% applied by the Ld. AO which is near about the industry standard in this line of business as an estimate was called for on the facts mentioned by the Ld. AO. The Ld. AO is directed to apply the net profit rate of 7% on the total turnover of Rs. 9,17,61,607/- which gives the net profit of Rs. 64,23,312/- instead of Rs. 73,40,928/- estimated by the Ld. AO and grant consequential relief to the assessee. Thus Ground Nos. 2 to 8 are partly allowed.

8. As the assessee had shown business income of Rs. 64,13,266/-, and the net profit from these two businesses is estimated at Rs. 69,31,370/-, the addition of Rs.5,18,104/- is sustained out of the addition of Rs. 25,53,445/- made by the Ld. AO and sustained by the Ld. CIT(A) and the assessee gets consequential relief of Rs. 20,35,341/-

9. As regards the claim of deduction u/s 24(b) of the Act, since no details were filed, this issue is remitted to the Ld. AO for verification. The assessee shall file the requisite evidence for claiming the deduction



u/s 24(b) of the Act as well as the deduction u/s 80C of the Act which have been denied by the Ld. AO in the absence of supporting documentary evidence. Hence, Ground No. 9 is allowed for statistical purposes. Ground Nos. 1, 9 and 10 being general in nature, do not need separate adjudication.

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

Order pronounced in the open Court on 20th May, 2025.

Sd/-

[George Mathan]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 20.05.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Mahendra Prasad, Kesaria, East Champaran, Bihar, 845424.**
2. **Assessment Unit, ITD, Delhi.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata