

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRIPAWAN SINGH, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1310/SRT/2024

Assessment Year: (2018-19)

(Hybrid Hearing)

Himanshu Dalelsing Hingar 309, 3 rd Floor, Tulsi Complex, Somnath Mahadev Ni Sheri, Haripura, Bamni, Surat	Vs.	The ITO, Ward - 2(3)(6), Surat
स्थायी लेखासं./जीआइआरसं./PAN/GIR No: AMAPH6148M		
(Appellant)		(Respondent)

Appellant by	Shri Himanshu Gandhi, CA
Respondent by	Shri Mukesh Jain, Sr. DR
Date of Hearing	13/03/2025
Date of Pronouncement	22/05/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 01.03.2021 by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'CIT(A)'] for the Assessment Year (AY) 2018-19.

2. Grounds of appeal raised by the assessee are as under:

"1. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming addition of Rs.6,55,210/- without mentioning any section on account of difference in gross profit as compared to earlier years on mere assumption basis without pointing out any defects in the books of account or the submissions of the appellant.

2. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming addition without considering the fact that no addition permissible as no show cause noticed issued before making addition thereby denying the appellant a reasonable opportunity of being heard.

3. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in levying penalty u/s 270A of Income Tax Act, 1961.

4. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in charging interest u/s 234D of Income Tax Act, 1961.

5. Appellant craves leave to add further grounds of appeal on or before the date of hearing.

6. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in dismissing the appeal without adjudicating the grounds of appeal and without considering the submissions of appellant and materials already on record.”

3. Brief facts in the case of assessee are that assessee filed his return of income on 05.10.2018, declaring total income of Rs.10,38,310/-. The assessee is engaged in the business of trading, import, export and manufacturing of rough and polished diamond during the assessment proceedings u/s 143(3) of the Act. The assessee filed explanations and details, such as trading and profit and loss statement, balance sheet, computation of total income. The assessee also submitted Form 26AS along with ledger account of interest income, which are offered in return of income, month-wise summary of purchase and sales, import invoices etc. The assessee stated that major purchase of rough diamond was through import only from European Union and United Arab Emirates. The Assessing Officer (in short, 'AO') verified various details submitted by assessee. From profit and loss account, the AO found that the assessee disclosed PBDIT, which is less than industry average. The assessee had shown difference of

net profit ratio @ 0.05% [i.e., 0.13% (AY.2017-18) - 0.08% (AY.2018-19)], which translates to Rs.6,55,210/- and added the same to the total income. The AO assessed the total income at Rs.16,93,520/- as against the returned income of Rs.10,38,310/-.

4. Aggrieved by the order of AO, the assessee filed appeal before CIT(A). The appellant furnished the statement of facts and other relevant documents/submission before the CIT(A). However, the CIT(A) sustained the addition made by AO and dismissed the appeal.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (ld. AR) of the assessee filed a paper book containing 62 pages including the audited financial statements, tax audit report, notices u/s 143(2) & 142(1), e-proceedings response acknowledgement dated 01.02.2021 and viewed notices for e-proceedings on ITBA portal. He submitted that the small difference in profit rate is due various factors and high turnover. The books of a/c are duly audited and sales and purchases are through cross account payee cheques. He submitted that difference in net profit rate cannot be the reason for making any addition. He also relied upon the decisions in cases of DCIT vs. Symbiosis Pharmaceuticals (P.) Ltd., 164 taxmann.com 747 (Chandigarh – Trib.) and ACIT vs. Ashish Bansal, in ITA No.7427/Del/2018, dated 02.06.2023.

6. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the orders of lower authorities.

7. We have heard both the parties and perused the materials on record. We have also deliberated on the decisions relied upon by the Id. AR. The only the reason for making the addition of Rs.6,55,210/- was the difference in the net profit ratio between the AY.2017-18 and the subject AY.2018-19. The assessee had filed various details including the audited books of account. The AO has not found any defects in the books of account or the other details submitted during the assessment proceedings. There is no finding about the inflation of expenses or suppression of sales. There are various factors which influence the profit rate of any business entity during a particular year. It is not proper to say that the profit rate would remain constant over a period of time. The decisions relied upon by the Id. AR, are also directly on the issue. In the case of Symbiosis Pharmaceutical (P.) Ltd. (supra), the ITAT, Chandigarh upheld the deletion of addition by the CIT(A) by stating that no mistake in the books of account and vouchers were found by the AO. Similarly, in case of Ashish Bansal (supra), it was held that the AO only noted that fall in GP rate of jewellery without pointing out any defects or discrepancies in the audited books of account of the assessee. This approach without any other positive material or evidence, only on standalone basis, is not correct and justified. In the present case also, no defects has been found in the books of account and other details /

evidences filed by the appellant. The AO has made the addition only on presumption basis. Therefore, the addition is not liable to be sustained.

Accordingly, we set aside the order of CIT(A) and delete the addition.

8. In the result, the appeal of the assessee allowed.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 22/05/2025.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat

दिनांक/ Date:22/05/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat