



IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, GOA



BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA Nos. 065/PAN/2025

Assessment Year : 2021-22

M/s Delhi Best collection
Hospeth Galli, Gokak,
Belgaum-591307.
PAN : AAIFD5231A

.....Appellant

V/s

The Income Tax Officer,
Ward-1, Gokak, Belgaum.

..... Respondent

Appearances

Assessee by : Mr Saideep Gadadi ['Ld. AR']

Revenue by : Mr Deshmukh Prakash ['Ld. DR']

Date of conclusive Hearing : 03/06/2025

Date of Pronouncement : 04/06/2025

ORDER

PER G. D. PADMAHSHALI;

By captioned appeal, the assessee impugns DIN & Order No. 1070575515(1) dt. 22/11/2024 passed by the National Faceless Appeal Centre, Delhi ['Ld. NFAC' in abbr.] u/s 250 of the Income-tax Act, 1961 ['the Act' in abbr.] anent to assessment year 2021-22 ['AY' in abbr.]



2. Tersely stated facts of the case are that; the assessee is a partnership firm engaged in retail trading of textiles items etc. For the year under consideration the assessee filed its return of income on 11/02/2022 declaring total loss of ₹5,09,093/-. The case of the assessee was subjected to scrutiny wherein the Ld. AO for the want of records rejected the books u/s 145(3) of the Act and consequently estimated the net sales/receipts from dead-stock clearance sales @50% of its closing value [₹1,20,41,204/- i.e. 50% of ₹2,40,82,409/-] as against net realisation of ₹42,87,744/- claimed to have earned by the assessee. With resultant addition, consequential assessment u/s 143(3) r.w.s. 144B of the Act was framed whereby total income was eventually assessed at ₹74,89,275/- as against the returned loss. In appeal, the assessee was allowed a part relief by the Ld. NFAC who restricted the estimation of net realisation from dead stock clearance to 25% of its closing undisputed inventory value.



3. Aggrieved by the action of the tax authorities and the impugned order, the assessee is in appeal on five argumentative grounds which are inconsonance with rule 8 of ITAT-Rules, 1963 hence the re-production thereof deem unnecessary for the purpose of our adjudication. However it shall suffice to state that those grounds collectively challenges the sanctity of action whereby the tax authorities resorted to ad-hoc estimation of realisation from clearance stock sales.

4. The sum and substance of the argument of the appellant in present appeal is that, owing to winding up of entire business and dissolution of firm, the assessee was forced to vacate the building by immediate removal *vis-à-vis* sale/clearance of entire closing stock which were old/non-moving at the relevant time. The action of tax authorities in rejecting the books/audited results and consequential estimation of sales realisation/receipt from clearance of dead-stock is without any basis and arbitrary in nature, therefore deserves to be quashed.



5. *Per contra*, the Ld. DR Mr Deshmukh averred that, during the course of assessment proceedings the Ld. AO served as many as nine notices, however none of these notices were effectively replied. In the event of assessee's non-co-operation and in the absence documentary evidence the Ld. AO rejected the audited books u/s 145(3) of the Act for the want of correctness & completeness therefore and as a result estimated the total income to the best possible manner in accordance with law u/s 143(3) r.w.s. 144B of the Act. The assessee was much less different in first appellate proceedings in not providing documentary evidences and non-prosecution of appeal. However keeping in view fact and circumstance but without a rational, the Ld. NFAC cut-down the sales estimation to 25% of closing value of inventory. Not too much surprise, the assessee is indifferent in the present proceedings as well. The assessee's audited financial and audit remarks could hardly corroborate with the results reported by the



assessee firm in its return. In view of the aforestated factual matrix, in the event of rejection of books, the estimation of sales is perfectly in order. Further more than possible relief is already granted to the assessee by the Ld. NFAC therefore the assessee deserves no further relief in present appeal. For the reasons the Revenue prays to the bench that, the appeal of the assessee may please be dismissed without any further relief.

6. We have heard the rival party's submission and subject to rule 18 of ITAT-Rules,1963 perused the material placed on record and considered the facts of the case in the light of settled position of law and the case laws pressed into service by the parties, which are forewarned to the respective parties. We note that, the case of the appellant was selected for scrutiny and various notices from 28/06/2022 to 28/11/2022 were issued to verify the claim and to vouch the veracity of audited results reported by the appellant. However none of these notices were effectively replied by the appellant.



The appellant laid no record or information and adduced no documentary evidences to establish correctness and completeness of audited results & claims made in its return of income. In the event, the Ld. AO was constrained to reject the books and advanced the determination of income on the basis of estimation to the best of his judgement. We also note that, the assessment was challenged in appeal before the Ld. NFAC never prosecuted by the appellant. In-spite of several notices issued to it in appellate proceedings, the appellant produced no effective records or documentary evidences in support of grounds raised in form No 35 and claims that were made in the return of income filed by it. In view of such fettered findings, the first appellate authority upheld the rejection of books on the same reasoning and countenanced the consequential action of estimation. However considering other market influential factors, a partial relief by restricting estimation of sales to 25% as against 50% of inventory value, was granted.



7. We note that, the appellant admittedly failed to adduce on record the details of movement of stock, inventory valuation, details of dead-stock clearance sales, invoices raised therefore and receipts/realisation made on such account. Further the details of receipt, details of customers to whom such sales were made, bank accounts statement etc., none of these documentary evidences were filed on record. The failure not to mention continued in the present proceedings too. In view of this factual matrix, in our considered view the appellant at the outset failed to justify the (i) presence of any extraordinary/unexpected circumstance constraining clearance of stock, (ii) obligating factor for exorbitant 80% deep discount sales of its entire stock/inventory. Right from very beginning of the assessment proceedings, the appellant continually and round the clock claimed that, owing to winding up of entire business activities, dispute between the partners for properties etc., and consequential dissolution of firm



the appellant was constrained to jettison/discard entire inventory as dead-stock under clearance sales at throw-away price of 20% of its cost. Throughout these proceedings this claim of the appellant remain unsubstantiated by any corroborative evidences. Upon a specific query to lay the details of ongoing court dispute and copy of dissolution deed, the Ld. AR pull cat out of the box, who referring to Pg 37-38 of paper book admitted that pending the property dispute in the court of law, the appellant firm yet to validly execute dissolution and therefore in reality the appellant firm yet to be dissolved. In the absence of valid dissolution executed by the partners for all the reasons, the appellant firms continues its existence in the eye of law thus under the provisions of the Act. Thus, the very claim of presence of extraordinary circumstances for discarding or scrapping the entire inventory under the garb of dead-stock clearance collapsed like a house of cards, which the appellant could hardly rebuild.



8. It remained an admitted fact that, right from the very beginning of the assessment, the appellant desisted from producing key information and also adducing all such evidential documents necessary to prove the correctness & completeness of audited results *vis-à-vis* claims made by it in its return of income when called. The collectively remarks of the tax audit report also solidified the untruthfulness of appellant's claims. In consequence, the action of rejection of books and estimation of income in our considered was warranted in view of the settled position of law laid in the case of '*CIT Vs Anil Kumar & Co*' [2016 (3) TMI 184 (Kar)]. The action of rejection of books where correctness & completeness remained to be proved and consequential estimation of income to the best of judgement by the tax authorities finds unwavering support from Hon'ble Apex court's decision in the case of '*Kachwala Gems Vs Jt. CIT*' [2007, 288 ITR 10 (SC)]. A similar rationale & ratio can also be traced in the decision of '*Bastiram Narayandas Vs CIT*' [1994, 210 ITR 438 (BHC)]



9. In the absence of full details of items of inventory, nature of stock, market condition, payment terms and buyers bargaining power, the original estimation as well reduced estimation of sales/realisation found arrived by both the tax authorities on ad-hoc basis. The appellant made out its case on no issue/subject, on the contrary distorted the fact of actual sale of inventory in the grab of its dissolution and ongoing legal dispute etc. Therefore keeping in mind the conduct of the appellant and after considering general retail textile market determinants we see no convincing reason to interfere with the impugned order & thus with the reduced estimation. The grounds of appeal thus stands dismissed accordingly.

10. In result, the appeal stands dismissed.

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned herein before.

-S/d-
PAVAN KUMAR GADALE
JUDICIAL MEMBER

-S/d-
G. D. PADMAHSHALI
ACCOUNTANT MEMBER

Panaji/Dt: 04th June, 2025.

Copy of the Order forwarded to :

- | | | |
|-------------------|-----------------------------------|------------------------------|
| 1. The Appellant. | 2. The Respondent. | 3. The CIT(A)/NFAC Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File |

By Order,
Sr. Private Secretary / AR ITAT, Panaji.