IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

ITA No.2098/PUN/2024
Assessment year : 2017-18

Krish Wines C S No.3744, Station Road, Chalisgaon, Jalgaon – 424101	**Vs.**	ACIT, Circle – 1, Jalgaon
PAN: AACFR8799M		
(Appellant)		**(Respondent)**

Assessee by	**:**	Shri Pramod S Shingte
Department by	**:**	Shri Ramnath P Murkunde
Date of hearing	**:**	20-08-2025
Date of pronouncement	**:**	27-10-2025

O R D E R

PER R.K. PANDA, VP:

This appeal filed by the assessee is directed against the order dated 16.08.2024 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2017-18.

2. Facts of the case, in brief, are that the assessee is a firm trading in foreign liquor and country liquor i.e. wine ship. It carries on the business of retail sale of IMFL and country liquor. It filed its return of income on 24.10.2017 declaring total income of Rs.13,40,810/-. The case was selected for scrutiny through CASS. First notice u/s 143(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') was issued on 13.08.2018 by the ITO, Ward 2(2), Jalgaon which was duly served on the assessee. Subsequently the case was transferred from the ITO, Ward 2(2), Jalgaon to DCIT, Circle – 2, Jalgaon (now Circle – 1, Jalgaon) on 08.04.2019

as per jurisdiction. Notice u/s 142(1) of the Act on 20.05.2019 along with questionnaire asking the assessee to file certain details regarding the scrutiny assessment. Second notice u/s 142(1) of the Act was issued on 31.10.2019 requesting the assessee to furnish the details as per the questionnaire. The assessee in response to notice filed certain documents such as computation of income, financial statement, tax audit report, VAT return, party wise purchase details, sundry creditors, bank statement etc.

3. During the course of assessment proceedings the Assessing Officer observed from the details furnished by the assessee that it has deposited total cash to the tune of Rs.1,68,15,700/-. Out of total deposits an amount of Rs.33,66,000/- was deposited into bank through SBN notes (demonetized notes). From the various details furnished by the assessee, he noted that the assessee is having closing cash in hand of Rs.18,65,717/- as on 08.11.2016 i.e. on the day of demonization. Since the assessee has deposited SBN notes to the tune of Rs.33,66,000/- during the demonetization period which is more than closing cash in hand as on 08.11.2016, therefore, he asked the assessee to explain the difference of Rs.15,00,283/-. In absence of any satisfactory explanation given by the assessee the Assessing Officer, invoking the provisions of section 69A of the Act, made addition of the same to the total income of the assessee as unexplained cash.

4. The Assessing Officer observed from the details furnished by the assessee that the assessee has shown gross profit of Rs.79,67,562/- against the total sales of

Rs.13,38,64,348/- which comes to 5.95% of the total receipts. The assessee did not furnish the details of sales, purchases, gross profit, closing stock in value etc separately for country liquor and IMFL. The assessee did not submit the complete details along with complete documentary evidence. The Assessing Officer therefore, asked the assessee to submit the details of sales with supporting sales bills and furnish the details of sales in the given proforma and also to produce the copies of sales bills for verification. The assessee was also asked to reconcile the sale, purchase and stock as per the stock register. From the various details furnished by the assessee the Assessing Officer noted that the assessee has furnished the sale purchase details, quantity wise and value wise closing stock, monthly sale of IMFL and country liquor. However, the specific details as asked for in the questionnaire were not furnished by the assessee. The assessee did not furnish the purchase price and MRP of various types of liquor along with the working of GP separately for country liquor and the IMFL. It was explained by the assessee that liquor is sold at low margin, therefore, the GP is low. Further, the assessee did not furnish the requisite documentary evidence in support of its claim. The Assessing Officer further noted that the sales of Rs.13,38,64,348/- disclosed by the assessee is not at all verifiable. In view of the above, the Assessing Officer rejected the book results by invoking the provisions of section 145 of the Act and estimated the GP rate @ 10% by observing as under:

> *"8.14 As already mentioned, the assessee was requested to furnish details of sales, purchases, gross profits, etc separately for country liquor and IMFL/Beer. In spite of sufficient opportunity given, the assessee did not furnish the same, which is surprising. There seems to be absolutely no reason for not to furnish the said details as the required details are very well available with the assessee in the*

form of purchase/sales bills, stock register, etc which are required to be maintained mandatorily as per the provisions of Bombay Prohibition Act. The assessee did not furnish the purchase price and MRP of various types of liquor along with the working of GP separately for country liquor and the IMFL. In view of said facts, I have left with no option but to adopt reasonable average G.P of 10.00% in absence of separate details thereof."

5. After deducting the GP already shown by the assessee at Rs.79,67,562/-, the Assessing Officer made addition of Rs.54,18,873/- on account of difference in the GP.

6. Before the Ld. CIT(A) / NFAC it was argued that the assessee has deposited cash of Rs.1,68,15,700/- during the demonization period out of which an amount of Rs.13,56,000/- was Specified Bank Notes deposited in the account maintained with the Hasti Co-op. Bank Ltd., Chalisgaon and an amount of Rs.20,10,000/- SBN deposited in the bank account maintained with Godavari Laxmi Co-op. Ltd., Jalgaon. Thus, the total cash deposited in specified bank notes come to Rs.33,66,000/- which has been adopted by the Assessing Officer. However, the Assessing Officer has wrongly considered the cash deposit of Rs.5,40,450/- on 08.11.2016 i.e. before the midnight of 8th November, 2016 while calculating the figure of Rs.33,66,000/-. On the basis of above submissions, the Ld. CIT(A) / NFAC directed the Assessing Officer to verify as to whether the amount of Rs.5,40,450/- was deposited before the midnight of 8th November, 2016 and in case it is correct, then to allow deduction of the same.

7. So far as the adoption of GP @ 10% is concerned, the Ld. CIT(A) / NFAC in absence of any satisfactory explanation given before him upheld the addition.

8. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

> *1. On the facts and in the circumstances of the case and in law, the assessment order passed u/s 143(3) dated 18/12/2019 for AY 2017-18 lacks jurisdiction, as appellant's jurisdiction lies with the Assessment Commissioner on Income Tax Circle 1, Jalgaon, however, the first mandatory notice u/s 143(2) of IT Act, was issued by ITO Ward 2(2), Jalgaon, and there is no such notice issued by ACIT, Circle-2, Jalgaon. Therefore, the entire proceedings are void ab initio and consequential order needs to be quashed.*
>
> *2. On the facts and in the circumstances of the case and in law the learned Assessing Officer erred in passing the Assessment order, without issuing the specific show cause notice requiring the appellant to communicate the objections if any for proposed addition, therefore the consequential order passed u/s 143(3) is bad in law and deserves to be struck down.*
>
> *3. On the facts and in the circumstances of the case and in law lower authorities have erred in making an addition of Rs.15,00,283/- u/s 69A-Unexplained Money, being cash deposited in the bank during demonetization period by disregarding the appellant's contention. Your appellant prays for deletion of entire addition.*
>
> *4. On the facts and in the circumstances of the case and in law lower authorities have erred in confirming the addition of Rs.54,18,873/- being addition on account of alleged low gross profit by rejecting the appellant's contention and estimated the profit without rejecting the books of accounts. Entire action of estimating the GP, without appreciating the facts of the case is unwarranted. Your appellant prays for deletion of entire addition.*
>
> *Your appellant prays for deletion of entire addition. Your appellant craves for to add, alter amend, modify, delete any or all grounds of appeal before or during the course of hearing in the interest of natural justice.*

9. Ground No.1 relates to the validity of the order passed u/s 143(3) in absence of 143(2) notice issued by the ACIT, Circle-2, Jalgaon.

10. The Ld. Counsel for the assessee at the outset submitted that the first notice u/s 143(2) of the Act was issued by the ITO, Ward 2(2), Jalgaon which was duly served on the assessee. Subsequently the case was transferred from the ITO, Ward 2(2), Jalgaon to DCIT Circle-2, Jalgaon (now Circle – 1, Jalgaon) on 08.04.2019. However, after such transfer the new Assessing Officer has issued notice u/s 142(1) on 20.05.2019 along with questionnaire. Thereafter, second notice u/s 142(1) was issued on 31.10.2019. However, no notice was issued by the ACIT, Circle – 1, Jalgaon u/s 143(2). Therefore, the entire proceedings on account of non issue of notice u/s 143(2) by the jurisdictional Assessing Officer vitiates the entire assessment proceedings.

11. The Ld. DR on the other hand referring to the provisions of section 124 of the Act submitted that the assessee has never objected to the jurisdiction of the Assessing Officer after expiry of one month from the date on which he was served with notice under sub-section (1) of section 142 of the Act or even thereafter till the completion of the assessment. Therefore, the argument of the Ld. Counsel for the assessee is *de void* of any merit.

12. Referring to the decision of the Co-ordinate Bench of the Tribunal in the case of ACIT vs. Outabox Media Solutions LLP vide ITA No.177/PUN/2024 order dated 07.11.2024 for assessment year 2017-18, he submitted that under identical circumstances the Tribunal has rejected such arguments of the assessee. He submitted that the grounds raised by the assessee on the issue of non issue of notice

u/s 143(2) of the Act by the jurisdictional Assessing Officer is misplaced. He also relied on the following decisions:

i) *Tarasafe International (P.) Ltd. vs. DCIT (2023) 153 taxmann.com 282 (Kolkata – Trib.)*

ii) *DCIT vs. Kalinga Institute of Industrial Technology (2023) 454 ITR 582 (SC)*

13. He accordingly submitted that the grounds raised by the assessee on this issue should be dismissed.

14. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. The first grievance in the grounds raised by the assessee relates to the validity of assessment order in absence of issue of notice u/s 143(2) of the Act by the DCIT, Circle – 1, Jalgaon after transfer of jurisdiction to him from the ITO, Ward 2(2), Jalgaon. It is an admitted fact that notice u/s 143(2) of the Act was issued by the ITO, Ward 2(2), Jalgaon on 13.08.2018. Subsequently as per jurisdiction the case was transferred from the ITO, Ward 2(2), Jalgaon to the DCIT, Circle – 2, Jalgaon (now Circle -1, Jalgaon) on 08.04.2019. It is also an admitted fact that after such transfer the first notice u/s 142(1) was issued on 20.05.2019 by the DCIT, Circle – 1, Jalgaon. The second notice u/s 142(1) of the Act was issued on 31.10.2019 by the DCIT, Circle – 1, Jalgaon. At no point of

time the assessee has challenged the validity of jurisdiction or non issue of notice u/s 143(2) of the Act.

15. We find an identical issue had come up before the Co-ordinate Bench of the Tribunal in the case of ACIT vs. Outabox Media Solutions LLP (supra). We find the Tribunal after considering various decisions has dismissed such a ground raised by the assessee by observing as under:

> *"18. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC and the paper book filed by both the sides. We have also considered the various decisions cited before us by both sides. Before dealing with the merit of the case, first, we would like to decide the legal ground raised by the assessee as per Rule 27 of the Income Tax (Appellate Tribunal) Rules, 1963 according to which, the ACIT, Panvel Circle being the jurisdictional Assessing Officer has not issued the notice u/s 143(2) of the Act and therefore, the assessment order is invalid. It is an admitted fact that the assessee had filed its return of income before the ITO, Ward-2, Panvel who had issued notice u/s 143(2). Subsequently due to monetary limits of the income returned, the ITO Ward-2, Panvel transferred the file to the ACIT, Panvel Circle who issued notice u/s 142(1) of the Act. The relevant operative portion of the assessment order reads as under:*
>
> > *"1. The return of income for A.Y.2017-18 was electronically filed by the assessee on 07.11.2017 declaring total income of Rs. 99,88,360/-. The case was selected for scrutiny through 'CASS' to verify limited issue of "Contract Expenses". Accordingly, notice u/s. 143(2) of Income-tax Act, 1961 [hereinafter referred to as 'the Act'] was issued to the assessee by the Income Tax Officer, Ward-2, Panvel on 21.09.2019. The said notice was duly served on the assessee through speed post as well as through email. The assessee was specifically asked to respond through e-proceeding only. In response, the assessee submitted its response vide letter dated 28.08.2018 through RPAD (received on 04.10.2018) along with list of Contract Expenses incurred along with the copies of bills. The details submitted were duly examined and taken on record. Later on, the case was received on transferred to this charge as the jurisdiction over the case vests with this charge. Accordingly, due to change in incumbent and in order to complete the proceedings, a notice u/s 142(1) of the Act was issued to the assessee on 07.11.2019."*
>
> *19. It is also an admitted fact that the assessee never challenged the jurisdiction of the ACIT, Panvel Circle for not issuing notice u/s 143(2) either*

before him or before the CIT(A) / NFAC and has participated in such assessment proceedings. The provisions of section 124(3)(a) and 124(4) of the Act read as under:

> *"124(1).....*
>
> *.....*
>
> *(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—*
>
> *(a) where he has made a return under sub-section (1) of section 115WD or under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or sub-section (2) of section 115WE or sub-section (2) of section 143 or after the completion of the assessment, whichever is earlier;*
>
> *(b) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (2) of section 115WD or sub-section (1) of section 142 or under sub-section (1) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144 to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier;*
>
> *(c) where an action has been taken under section 132 or section 132A, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier.*
>
> *(4) Subject to the provisions of sub-section (3), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (2) before the assessment is made."*

20. We find an identical issue had come up before the Hon'ble Supreme Court in the case of DCIT vs. Kalinga Institute of Industrial Technology (supra). In that case, the Hon'ble High Court of Orissha has quashed the assessment order on the ground that the jurisdiction to issue notice u/s 143(2) of the Act in case of assessee laid with JCIT (OSD) (Exemption), Bhubaneswar, whereas the notice u/s 143(2) of the Act was issued by the ACIT, Corporate Circle 1(2), Bhubaneswar, who has no jurisdiction. When the Revenue challenged the above order of the Hon'ble High Court, the Hon'ble Supreme Court set aside the order of the Hon'ble High Court and allowed the appeal filed by the Revenue on the ground that the records revealed that the assessee had participated pursuant to the notice issued u/s 142(1) of the Act and had not questioned the jurisdiction of the Assessing Officer and therefore, in such case, the order of the Hon'ble High Court could not be sustained. The relevant order of the Hon'ble Supreme Court reads as under:

"1. The impugned order set asides the assessment for AY 2014-2015 on the ground that the jurisdictional officer had not adjudicated upon the returns. The jurisdiction had been changed after the returns were filed. However, the records also reveals that the assessee had participated pursuant to the notice issued under Section 142 (1) and had not questioned the jurisdiction of the assessing officer. Section 124(3)(a) of the Income Tax Act precludes the assessee from questioning the jurisdiction of the assessing officer, if he does not do so within 30 days of receipt of notice under Section 142 (1).

2. In the present case, the facts did not warrant the order made by the High Court. At the same time, this Court notices that the High Court had granted liberty to the concerned authority to issue appropriate notice.

3. It is clarified, therefore, that the assessing officer is free to complete the assessment (in case the assessment order has not been issued) within the next 60 days. In such event, the question of limitation shall not be raised by the assessee.

4. The special leave petition is allowed in the above terms.

5. Pending application, if any, are disposed of."

21. Since the assessee in the instant case had participated in the assessment proceedings and had never challenged the jurisdiction of the ACIT, Panvel Circle who had issued the notice u/s 142(1) of the Act, therefore, respectfully following the decision of the Hon'ble Supreme Court in the case of DCIT vs. Kalinga Institute of Industrial Technology (supra), we hold that the assessment order dated 16.12.2019 passed by the ACIT, Panvel Circle is valid. So far as the various decisions relied on by the Ld. Counsel for the assessee are concerned, these are distinguishable and not applicable to the facts of the present case especially in view of the decision of Hon'ble Supreme Court cited (supra). In view of the above discussion and following the decision of the Hon'ble Supreme Court in the case of DCIT vs. Kalinga Institute of Industrial Technology (supra), we hold that the assessment order dated 16.12.2019 passed by the ACIT, Panvel Circle is valid. The legal ground raised by the assessee under rule 27 of the Rules is accordingly dismissed."

16. Since in the instant case the assessee has never challenged the non issue of notice u/s 143(2) by the new Assessing Officer after transfer of files to him as per jurisdiction from the ITO, Ward 2(2), Jalgaon and has participated in the assessment proceedings, therefore, we do not find any merit in the ground raised

by the assessee challenging the validity of assessment in absence of issue of notice u/s 143(2) by the DCIT, Circle – 1, Jalgaon. The first issue raised by the assessee is accordingly dismissed.

17. The second issue raised by the assessee relates to the order of the Assessing Officer in passing the order without issuing specific show cause notice to communite the objections, if any, for the proposed addition.

18. After hearing both sides, we find the Assessing Officer has given enough opportunities to the assessee to file the requisite details as per proforma given by him. Despite such repeated requests and letters the assessee furnished only part details but not full details as per specific requirement of the Assessing Officer. Under these circumstances, we do not find any merit in the ground raised by the assessee on this issue. The second ground raised by the assessee is accordingly dismissed.

19. The third issue raised by the assessee in the grounds of appeal relates to the order of the Ld. CIT(A) / NFAC confirming the addition of Rs.15,00,283/- u/s 69A of the Act.

20. After hearing both sides, we find the Assessing Officer made addition of Rs.15,00,283/- u/s 69A of the Act on the ground that the assessee has made deposit of specified bank notes during the demonetization period amounting to

Rs.33,66,000/- as against the closing cash in hand of Rs.18,65,717/-, When the assessee was having cash balance of only Rs.18,65,717/- as per the books of account it was incumbent upon the assessee to substantiate with evidence to the satisfaction of the Assessing Officer regarding the source of deposit of the balance amount of Rs.15,00,283/-. We find the Ld. CIT(A) / NFAC while adjudicating the issue has sustained the addition of Rs.15,00,283/- made by the Assessing Officer u/s 69A of the Act subject to verification of deposit of Rs.5,40,450/- on 08.11.2016, the reasons of which are as under:

4.3.2 After going through the assessment order and submission of the appellant, I find that the appellant had deposited total SBN to the tune of Rs. 33,66,000/- during demonetization period against the closing cash in hand of Rs. 18,65,717/- as on 08.11.2016. During the assessment proceedings, the AO found that the appellant had regularly deposited the SBN Notes even during demonetisation period whereas specified bank notes were prohibited from midnight of 08.11.2016. Since there was prohibition of acceptance of SBN from the midnight of 8th November 2016, the appellant couldn't accept the SBN for any sale of liquor or introduction of capital from partners. This shows that the source of deposit of excess SBN in the bank during demonetization can't be from the business transactions or partners' capital because the appellant doesn't fall in the entity entitled for receiving the SBN during demonetization period. Hence, the appellant has failed to furnish any plausible and satisfactory explanation with respect to the sources of the excess SBN deposits during the demonetization. This is the reason, why the AO has assessed the deposits of SBN in bank as unexplained money u/s 69A of the Act.

4.3.3 Besides, the appellant has furnished the comparative figure of cash sales for A.Y. 2016-17 and 2017-18 in the written submission but the issue in the present case is not the source of cash deposits in regular time/period but the issue relates deposit of SBN during the demonetization period which can't be equated with the cash deposit during non-demonetization period.

Under these circumstances, the decision of the Hon'ble Supreme Court in the case of **Sumati Dayal [214 ITR 801 SC] and Durga Prasad More [(1971) 82 ITR 540 SC]** is relevant wherein it was held that the apparent must be considered real until it is shown that there are reasons to believe that the apparent is not the real and that the

taxing authorities are entitled to look into the surrounding circumstances to find out the reality and the matter has to be considered by applying the test of human probabilities.

4.3.4 So far as the case law cited by the appellant in support of claim is concerned, the appellant's explanation about source of the SBN deposit was not found to be satisfactory and the source of such deposit remains unexplained in nature. Further, the appellant failed to show that there was any specific recording of SBN notes in the regular books with the identity of person tendering such SBN during demonetization period to explain the source of deposit of excess SBN, thus, the case laws doesn't apply in the present case.

4.3.5 Now coming to the factual aspect of the issue wherein the appellant contended that the AO has wrongly considered the cash deposit of Rs. 5,40,450/- on 08.11.2016 i.e. before the midnight of 8th November 2016 in calculation of total SBN deposits of Rs. 33,66,000/-. However, the appellant didn't furnish the copy of bank statement to show that an amount of Rs. 5,40,450/- was deposited on 08.11.2016 i.e. before the mid-night of 8th November, 2016. Therefore, the appellant is directed to furnish copy of the relevant bank statement to substantiate its claim and the AO shall verify the same and allowed the relief, if the total SBN deposits of Rs. 33,66,000/- includes the cash deposit of 8th November, 2016.

In view of the above discussion, I do not find any infirmity in the addition of Rs. 15,00,283/- u/s 69A of the Act on a/c of unexplained cash deposit subject to relief of Rs. 5,40,450/-after verification by AO. Hence, this ground of appeal is **partly allowed.** //

21. When the assessee submitted before the Ld. CIT(A) / NFAC that the assessee has made deposit of an amount of Rs.5,40,450/- on 08.11.2016 i.e. before the midnight of 08.11.2016, the Ld. CIT(A) / NFAC directed the Assessing Officer to verify the same and allow the consequential relief if the specified bank notes deposit of Rs.33,66,000/- includes the cash deposited on 08.11.2016. However, the Ld. Counsel for the assessee could not substantiate with any evidence to our satisfaction regarding the availability of balance cash of Rs.9,59,833/-. Under these circumstances, we do not find any infirmity in the order of the Ld. CIT(A) / NFAC sustaining the addition made by the Assessing Officer subject to verification of Rs.5,40,450/-. The third ground raised by the assessee is accordingly dismissed.

22. So far as the fourth issue i.e. addition of Rs.54,18,873/- made by the Assessing Officer on account of low GP which has been sustained by the Ld. CIT(A) / NFAC is concerned, we find the Assessing Officer adopted GP rate of 10% on the total turnover of Rs.1,33,86,435/- due to non submission of certain details required by the Assessing Officer such as purchase/sales bills, stock register, etc which are required to be maintained mandatorily as per the provisions of Bombay Prohibition Act. The assessee did not furnish the purchase price and MRP of various types of liquor along with the working of GP separately for country liquor and the IMFL. We find the Ld. CIT(A) / NFAC while sustaining the addition has elaborately discussed the issue and dismissed the grounds raised by the assessee by observing as under:

4.2.1 In the present case, the appellant engaged in running a wine shop of foreign liquor as well as country liquor. During the present year, the appellant firm had shown gross profit of Rs. 79,67,562/- on total sales of Rs. 13,38,64,348/- which comes to 5.95% of the total sales. During the assessment proceedings, the AO asked various evidences such as sales invoices, purchases bills, stock register, breakage and wastage register, goods inward and outward register, etc to ascertain the reason for low gross profit. The appellant was also asked to justify the low GP and valuation of closing stock. It was also pointed out by the AO that since the liquor trading comes under the strict rules of the Excise Law, these records have to be compulsorily maintained by the appellant. However, the appellant furnished only general evidences such as month wise purchase & sales (quantity as well as value), closing stock (quantity as well as value), financial statement, tax audit report, VAT return, party wise purchase details, sundry creditors, Bank statement but didn't furnish the basic evidences such as purchase & sale invoices of the liquor to substantiate the quantity as well as value of purchase, sales and closing stock. The AO has clearly mentioned in the assessment order at Para.7.1 that the appellant has not submitted the complete details alongwith documentary evidences. Merely filing of details of purchase, sales and closing stock is not sufficient to justify the value of purchase, sales and closing stock. In fact, a show cause notice was also issued on 02.12.2019 seeking the copies of bills in support of sales and reconciliation of purchases, sale and closing stock, MRP & Cost of each product, etc. The show cause notice contains various aspects of liquor business and pointed out the maintenance of various details/documents before seeking the details/documents (refer point no. 11 of the

show cause notice reproduced at page 7 & 8 of assessment order). However, the appellant furnished sale purchase details, quantity wise and value wise closing stock, monthly sale of IMFL and country liquor only and the specific details/evidences were not furnished by the appellant. The appellant did not furnish the purchase price and MRP of various types of liquor along with the working of GP separately for country liquor and the IMFL to justify the low gross profit margin and made general submission that the liquor was sold at low margin. It is pertinent to mention here that the liquor is a controlled items as per Bombay Prohibition Act and excise duty is levied at MRP and therefore, sold at MRP. Further, the appellant is required to maintain complete details of purchasers because a retailer should sale the liquor to permit holders only after obtaining the complete details of the purchaser. However, the appellant failed to furnish the MRP of the each sold product and also the copies of purchase & sales bills to satisfy the assessing officer with respect to correctness of the claim of purchases, sales and valuation of closing stock. Under these circumstances, I am convinced with the action of the AO rejecting the book results of the appellant.

4.2.2 So far as the rate of gross profit considered by the AO is concerned, it is seen from the assessment order itself (point no. 11.6 & 11.7 of show cause notice reproduced at page 7 & 8 of assessment order) that the AO has pointed out after examination of cost cards that the retailer's margin in liquor other than country liquor is around 8% to 8.5% other than the various discounts and scheme from the distributors/manufacturers. The AO also pointed out that the retailers' margin in country liquor case ranges from 12% to 15%. In fact, I have also seen the information available on public domain and find that the liquor business generally fetches margin of 20% to 30% of the sale. In fact, the comparative study of GP of any party is relevant, if the transactions are verifiable whereas in the present case, the transactions of business are not verifiable and this is the reason why the AO had not taken into consideration of GP/result of the appellant of earlier years. In this mater, the Hon'ble ITAT (Amritsar) in the case of **Pooja Construction Co. [1999] 69 ITD 147 (ASR.)** held that when Assessing Officer found that accounts maintained by assessee were neither prone to verification nor reliable, he could estimate and adopt net profit rate which should be rationale and reasonable. In view of the above facts & legal position, I find that the AO has considered the reasonable rate of GP at 10% and therefore, the contention of the appellant with respect to excessive adoption of GP rate is hereby **rejected.**

4.2.3 Now, the appellant has also submitted that the AO had accepted its GP in the

scrutiny order for AY 2015-16 and 2018-19 and furnished a copy of these assessment order in support of its claim. After perusal of these assessment orders, it is seen that the issue of low gross profit was not before the AO and also the appellant didn't show that this issue was examined in these assessment proceedings. Merely acceptance of returned income doesn't establish that the issue of low gross profit rate was examined in those assessment year whereas in the present case, the AO had examined the reason for low gross profit and found that the appellant didn't furnish the evidences in support of purchases, sales and valuation of closing stock. Thus, the acceptance of GP for other assessment year in scrutiny assessment doesn't have any adverse impact on the findings of the AO because the AO had examined the issue in detail in the present assessment year. Hence, this argument of the appellant is rejected.

4.2.4 The appellant has relied on several case laws but failed to show the similarly of facts of the cited cases and the present case. Perusal of the decision of Allahabad High Court in the case of CIT Vs Prayag Wines, it is seen that the AO had rejected the book result because the concern was issuing consolidated cash memo for petty sales at the end of each day whereas in the present case, the purchases, sales and valuation of closing stock are not verifiable. In short, the AO has rejected the book result for specific non-verification of sales, purchase and valuation of closing stock. In such scenario, the jurisdictional Hon'ble Mumbai ITAT in the case of **Color Craft Vs ITO [2016] 68 taxmann.com 409 (Mumbai - Trib.)** has held that where Assessing Officer listed out various deficiencies, which had not been rebutted by assessee, non-acceptance of book results and invocation of best judgment assessment by assessment authority could not be challenged.

In view of the above discussion, I don't find any infirmity in rejecting the book result shown by the appellant and adoption of GP rate@10% of total sales instead of the declared GP rate@5.95%. Thus, this ground of appeal is **dismissed.**

23. Since the assessee did not furnish purchase price and MRP of various types of liquor along with the working of GP separately for country liquor and IMFL to justify the low GP margins, therefore, we do not find any infirmity in the order of the Ld. CIT(A) / NFAC sustaining such GP addition made by the Assessing Officer. When the assessee is unable to submit the details of purchase price and MRP of various types of liquor along with the working of GP separately for country liquor and the IMFL, it is very difficult to come to a definite conclusion

regarding the margin of profit. Further, the Assessing Officer in the assessment order has given a finding that the regular margin found are in the range of 10% to 15% in the case of country liquor. Since the assessee in the instant case has not substantiated with any evidence to the satisfaction of the lower authorities as well before us, therefore, we do not find any infirmity in the order of the Ld. CIT(A) / NFAC confirming the GP addition made by the Assessing Officer by adopting the G.P. rate of 10%. Ground No.4 raised by the assessee is accordingly dismissed.

24. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 27th October, 2025.

Sd/-	**Sd/-**
(ASTHA CHANDRA)	(R. K. PANDA)
JUDICIAL MEMBER	VICE PRESIDENT

पुणे Pune; दिनांक Dated : 27th October, 2025
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	23.10.2025		Sr. PS/PS
2	Draft placed before author	24.10.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			