

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH "SMC", JABALPUR**

BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

I.T.A. No.129/JAB/2024 & I.T.A. Nos. 130, 131 & 132/JAB/2024
Assessment Year:2010-11

Basant Lal Gupta M/s. Basant Traders Churhat, Distt- Sidhi, Madhya Pradesh-486771. PAN:AOMPG8305E	Vs.	Income Tax Officer Ward-1, Rewa Income Tax Office Kothi Compound Becides Family Court, Rewa-486001.
(Appellant)		(Respondent)

Appellant by	Shri Sapan Usrethe, Advocate
Respondent by	Shri N. M. Prasad, Sr. DR-1

ORDER

(A) These appeals have been filed by the assessee for assessment year 2010-11 against impugned appellate order dated 26/10/2023, DIN & Order No.ITBA/NFAC/S/250/2023-24/1057425585(1) and orders dated 07.1.2023, DIN & Order No.ITBA/NFAC/S/250/2023-24/1058551316(1) and DIN & Order No.ITBA/ NFAC/S/250/2023-24/1058552330(1) respectively of Commissioner of Income Tax (Appeals) ["CIT(A)"] for short].

(B) In the appeals vide ITA. Nos. 129 & 132/JAB/2024 filed by the assessee, filings are beyond time limit prescribed under section 253(3) of IT Act. The assessee has submitted applications for condonation of delay in filing of these appeals, pleading that the delay was unintentional and beyond the control of the assessee and has requested to admit the appeals for hearing. The learned Sr. Departmental Representative for Revenue did not express any objection to assessee's application for condonation of delay in filing of

the appeals. In view of the foregoing, and in specific facts and circumstances of these appeals, the delays in filing of appeals vide ITA. Nos. 129 & 132/JAB/2024 are condoned; and the appeals are admitted for hearing.

(C) In appeal vide I.T.A. No.129/JAB/2024, facts of the case, briefly, are that assessment order dated 05.12.2017 was passed u/s 147144 of Income Tax Act, 1961 ("Act", for short) whereby the assessee's total income was determined at Rs.10,67,337/-. The aforesaid amount of Rs.10,67,337/- was deposited by the assessee in cash in the bank account. The Assessing Officer, treated the aforesaid amount as assessee's income in the assessment order. The assessee's appeal against the aforesaid assessment order was dismissed by learned CIT(A). Now the assessee is in appeal before the Income Tax Appellate Tribunal.

(D) At the time of hearing, learned Counsel for the assessee submitted that there was sufficient cause behind filing the appeal belatedly before the learned CIT(A). He also submitted that the appeal of the assessee was dismissed by Ld. CIT(A) on grounds of limitation; without providing reasonable opportunity of being heard. He drew our attention to records and pleaded that it was a fit case for condonation of delay in filing of appeal in the office of Ld. CIT(A). He submitted that the delay was beyond the control of the appellant; and it was not intentional. He further submitted that there was no mala-fide intention behind filing the appeal belatedly. He contended emphatically that the delay in filing of appeal in the office of the learned CIT(A) deserved to be condoned. On merits, he submitted that the aforesaid amount of Rs.10,67,337/- deposited in bank was assessee's business turnover; on which element of profit was a small portion of the total amount. He contended that only the profit element in the turnover

should be taxed as income; and not the entire turnover. Further, he also submitted that the dispute regarding may be settled by estimating the net profit at 12% of the turnover. The Ld. Departmental Representative expressed no objection to the same. Ld. Representatives of both sides, the Ld. AR for the assessee; and the Ld. Departmental Representative were in agreement that the aforesaid amount of Rs.10,67,337/- is to be treated as assessee's business turnover; and income is to be assessed based on applying net profit rate of 12% on the business turnover.

(E) Both sides have been heard and the materials available on record have been perused. During the course of hearing, the Ld. Representatives of both parties are in agreement that the disputed issue may be decided by applying the net profit rate of 12% on the turnover of Rs.10,67,337/-; and that the resultant amount of net profit is to be treated as income of the assessee. Considering the totality of facts and circumstances of the case and in view of the foregoing discussion, the Assessing Officer is directed to determine assessee's income by applying net profit rate of 12% on the turnover of Rs.10,67,337/-. The Assessing Officer is accordingly directed to recompute the total income. In view of the foregoing, and as the representatives of both sides are in agreement, all the grounds raised in the appeal are treated as disposed of in accordance with the above directions.

ITA NO. 132/JAB/2024

(F) Regarding imposition of penalty u/s 271(1)(c) of I.T. Act; the dispute pertains to ITA. No.132/JAB/2024 for A.Y. 2010-11 u/s 271(1)(c) of I.T. Act. Representatives of both sides were in agreement that the issue of penalty should also be restored back to the file of the Assessing Officer, the outcome of which will depend on the order passed by the Assessing Officer

in I.T.A. No.129/JAB/2024; as the corresponding dispute on quantum of addition has already been restored back to the file of the Assessing Officer vide foregoing paragraph (E) of this order. Accordingly, the impugned order of Ld. CIT(A) in ITA. No.132/JAB/2024 is set aside and matter regarding levy of penalty u/s 271(1)(c) of I.T. Act is restored back to the file of the Assessing Officer; with the direction to decide this issue in accordance with law after giving effect to the order in foregoing paragraph (E) of this order as regards appeal in ITA. No.129/JAB/2024.

130/JAB/2024 and 131/JAB/2024 for A.Y. 2010-10

(G) During the course of hearing of these appeals, the learned A.R. for the assessee submitted that these appeals are not being pressed. He sought to withdraw these appeals. Learned D.R. for Revenue expressed no objection. Accordingly, both the appeals are dismissed, being not pressed by the appellant assessee.

(H) In the result, ITA. No. 129/JAB/2024 & ITA. No.132/JAB/2024 are partly allowed for statistical purposes. ITA. Nos. 130 & 131/JAB/2024 are dismissed being withdrawn and not pressed by the appellant.

(Order was pronounced in the open court on 06/03/2026)

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Dated: 06/03/2026
Vijay Pal Singh, (Sr. PS)

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. D.R., I.T.A.T., Jabalpur