

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH: KOLKATA
[Before Shri M. Balaganesh, AM & Shri S. S. Viswanethra Ravi, JM]

I.T.A No. 1476/Kol/2016
Assessment Year: 2009-10

M/s. Bharat Industries (PAN:AADFB1901C) Vs. Assistant Commissioner of Income-tax,
Circle-48, Kolkata.
(Appellant) (Respondent)

Date of hearing: 18.11.2016
Date of pronouncement: 30.11.2016

For the Appellant: Shri Anil Kochar, Advocate
For the Respondent: Sallong Yaden, Addl. CIT

ORDER

Per Shri M. Balaganesh, AM:

This appeal by assessee is arising out of order of CIT(A)-14, Kolkata vide Appeal No. 346/CIT(A)-14/Cir-46/2011-12 dated 30.05.2016. Assessment was framed by ACIT, circle-48, Kolkata u/s. 143(3) of the Income tax Act, 1961 (hereinafter referred to as the “Act”) for AY 2009-10 vide his order dated 28.12.2011.

2. The only issue to be decided in this appeal is as to whether the ld CITA is justified in upholding the addition made towards net profit in the sum of Rs.2,38,719/- in the facts and circumstances of the case.

3. Brief facts of this issue are that the assessee is a partnership firm engaged in the business of manufacturer of fasteners. The return of income for the AY 2009-10 was filed electronically on 16.09.2009 disclosing taxable income of Rs.19,37,489/-. The assessee had reported gross turnover of Rs.12,43,54,759/-; gross profit of Rs.89,87,993/- which works out to 7.24% of gross turnover and net profit of Rs.19,37,489/- which works out to 1.56% of turnover. The assessee produced the books of account and relevant bills and vouchers before the AO which were test checked. The AO made a comparison of the gross profit and net profit declared by the assessee vis-à-vis immediately preceding previous year and found that net profit during the year had dropped by .09% and accordingly resorted to estimate the net profit at 1.75% as against 1.56% of the total turnover thereby making an addition of

Rs.2,38,719/- in the assessment, which action was also upheld by the Ld. CIT(A) in first appeal. Aggrieved, assessee is in appeal before us on the following sole effective ground:

“2. For that the appellant had explained the trading result and had contended that the addition made by the AO of an amount of Rs.2,38,719/- was totally uncalled for and that the Ld. CIT(A) ought to have properly appreciated the contentions raised by the appellant and ought to have deleted the addition as the same was totally uncalled for.”

4. The Ld. AR argued that the books of account were produced before the AO which were not rejected and in such a scenario resorting to estimation of net profit is not warranted. In response to this, the Ld. DR vehemently relied on the order of Ld. CIT(A).

5. We have heard the rival submissions and perused the materials available on record. We find lot of force in the argument of the Ld. AR that without resorting to rejection of books of account by pointing out any specific defect thereon the AO cannot resort to any estimation of profits and accordingly, we are declined to accept the action of AO. We hereby direct the AO to delete the addition made towards estimation of net profit. Accordingly, the ground raised by assessee is allowed.

6. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 30.11.2016.

Sd/-

(S.S. Viswanethra Ravi)
Judicial Member

Sd/-

(M. Balaganesh)
Accountant Member

Dated : 30th November, 2016

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. Bharat Industries, C/o S. L. Kochar, Advocate, 86, Canning Street, Kolkata-700001
2. Respondent – ACIT, Circle-48, Kolkata
3. The CIT(A), Kolkata
4. CIT, Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.