

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR

श्री भागचंद, लेखा सदस्य, के समक्ष
BEFORE: SHRI BHAGCHAND, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1038/JP/2016
निर्धारण वर्ष / Assessment Year : 2012-13

Rajkumar Gupta, Pro.p- M/s jai Bharat Trading company, Alwar.	बनाम Vs.	Income Tax Officer, Ward 2(2), Alwar.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ACCPG 4162 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : WRITTEN SUBMISSIONS.
राजस्व की ओर से / Revenue by : Shri R.A. Verma (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 28/02/2017
उदघोषणा की तारीख / Date of Pronouncement : 28/02/2017

आदेश / ORDER

PER: BHAGCHAND, A.M.

This is an appeal filed by the assessee against the order dated 28/09/2016 passed by the Id CIT(A), Alwar for the A.Y. 2012-13, wherein the assessee has raised following grounds of appeal:

- "1. That on the facts and in the circumstances of the case the learned ITO was wrong and unjustified in rejecting the books of accounts U/s 145(3) of the IT Act and thereby making a trading addition of Rs. 1,27,893/- and the learned CIT (Appeal) was also wrong and

unjustified in confirming the same. The learned ITO and the learned CIT (Appeal) both are wrong in saying that stock register was not produced.

2. *That on the facts and in the circumstances of the case the learned ITO was wrong and unjustified in disallowing a sum of Rs. 50,000/- out of various expenses. The learned ITO has not pointed out a single item for which voucher was not produced. The learned CIT (Appeal) was also wrong and unjustified in confirming the same.*
3. *That on the facts and in the circumstances of the case the learned ITO was wrong and unjustified in making an addition of Rs. 56,600/- on account of low house hold expenses and the learned CIT (Appeal) was also wrong and unjustified in confirming the same.*

2. None attended on behalf of the assessee. Ld. Sr. DR was heard.

After hearing the Id. Sr. DR, the appeal is being decided.

3. Ground No. 1 of the appeal is against rejecting the books of account and confirming the addition of Rs. 1,27,893/- made by the Assessing Officer.

4. The Id. CIT(A) had confirmed the addition made by the Assessing Officer by holding as under:-

"5.3. *I have gone through the assessment order as well as submissions made by the appellant and find that the A.O has rejected the books of accounts under section 145(3) of the Act citing various reasons as is mentioned in para 4.1 above.*

The appellant has claimed in the submission that stock register was produced before the A.O However, on perusal of the assessment records, it is evidently clear from the note sheets that the assessee did not produce the stock register and that fact is mentioned in the note sheet dated 12/01/2015. Therefore, the appellant's contention is not factually correct from the assessment record. Further, the A.O has clearly recorded in the note sheet that direct expenditure were not fully vouched hence could not be verified. Also the A.O had recorded that overhead charges were not included in the valuation of the stocks.

In view of the foregone, in my considered view, the A.O is justified in rejecting the books of accounts and making the trading additions to the tune of Rs. 1,27,893/- taking the average of last 2 years gross profit rate. Accordingly, the addition is sustained and the appellant's ground of appeal is dismissed.

5. After going through the records and hearing of the Id. Sr. DR, I find no infirmity in the order of the Id. CIT(A) wherein he has sustained the rejection of books of account and addition made by the Assessing Officer on account of non production of stock register by saying that the appellant's contention is not factually correct from the assessment record. The Id. CIT(A) has held that the Assessing Officer has clearly recorded in the notesheet that direct expenditure were not fully vouched hence could not be verified. He had also recorded that overhead charges were not included in the valuation of the stocks. Accordingly this ground of appeal by the assessee is hereby rejected.

6. Ground No. 2 of the appeal is against disallowance a sum of Rs. 50,000/- out of various expenses. The Id. CIT(A) has confirmed the addition made by the Assessing Officer by holding as under:-

"6.3 I have gone through the assessment order as well as submissions made by the appellant and find that the trading additions were made on the gross profit. Therefore, addition on account of expenditures other than trading expenses is justifiable. The above addition @ 5% is made on the basis of possible personal usage of telephone and vehicle and other sundry expenditures and on the fact that not all expenditure are fully vouched. The A.O has recorded

that no log book for vehicle usage are maintained. The assessee is also not maintaining call registers. It will not be out of context here to mention that in order to avail any expenditure under section 37 of the Act, the primary onus lies on the assessee to prove that such expenditures are incurred or expended wholly and exclusively for the purpose of business. In absence of complete details, the A.O is very reasonable to disallow only Rs.50,000/- out of expenditures claimed at Rs. 12,87,074/- of the expenses claimed. Accordingly, the Addition of Rs.50,000/- is sustained and appellant's ground of appeal on the issue is dismissed."

7. From perusal of record, I have found that there is no contrary material whatever reported by the Id. CIT(A) in his order, therefore in absence of any material against the findings of the Id. CIT(A), I have no alternate but to concur with the findings of the Id. CIT(A), therefore, I uphold the order of the Id. CIT(A) on this issue. Accordingly, this ground of assessee's appeal is dismissed.

8. The 3rd ground of appeal is against confirming the addition of Rs. 56,600/- on account of low household expenses. The Id. CIT(A) has confirmed the addition made by the Assessing Officer by holding that the Assessing Officer had estimated the addition on account of low

household expenses but he has not made any addition on this account in view of trading additions already made, therefore, he found no reason to interfere on this account as not additions have been made.

9. From perusal of record, it transpires that the Assessing Officer has not made any addition on this account, due to size of family, standard of living, cost of living. The Id. CIT(A) has confirmed the addition by holding that the Assessing Officer had estimated the addition on account of low household expenses but he has not made any addition on this account in view of trading additions already made. Therefore, I find no any contrary material whatever reported by the Id. CIT(A) in his order, therefore in absence of any material against the finding of the Id. CIT(A), I have alternate but to concur with the finding of the Id. CIT(A), accordingly, this ground of assessee's appeal is dismissed.

10. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 28/02/2017.

Sd/-

(भागचंद)

(BHAGCHAND)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 28th February, 2017

*Ranjan

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:

1. अपीलार्थी/The Appellant- Shri Rajkumar Gupta, Alwar.
2. प्रत्यर्थी/ The Respondent- The ITO, Ward 2(2), Alwar.
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त(अपील)/The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
6. गार्ड फाईल/ Guard File (ITA No. 1038/JP/2016)

आदेशानुसार/ By order,

सहायक पंजीकार/Asst. Registrar