

आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.182/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2015-2016)

Bankula Jaga Rao Reddy, Jagannathpur, Narendrapur, Ganjam-760007	Vs	ITO, National Faceless Assessment Centre, Delhi
PAN No. :AIRPR 5691 M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri S.K.Sarangi, CA
राजस्व की ओर से /Revenue by	:	Dr. Abani Kanta Nayak, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	24/06/2024
घोषणा की तारीख/Date of Pronouncement	:	24/06/2024

आदेश / ORDER

Per Bench :

This is an appeal filed by the assessee against the order dated 01.03.2024, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2023-24/1061268921(1).

2. It was submitted by the Id. AR that the assessee is engaged in the business of commission agent for prawn seeds. It was the submission that the assessment year 2015-2016 was the first year of the assessee's business. It was the submission that the return filed by the assessee came to be processed and the assessment came to be completed u/s.143(3) of the Act originally on 28.04.2017 accepting the returned income. The return of the assessee was the subject matter of revision u/s.263 of the Act by the Pr.CIT and vide an order dated 17.03.2020, the Id. Pr.CIT set aside the assessment to the file of AO with a direction to

redo the assessment in regard to two issues, being one the profit of the assessee and secondly to bring to tax the interest from bank accounts which had not been offered to tax by the assessee. It was the submission that the consequential assessment order was passed u/s.143(3) r.w.s.263 of the Act on 01.09.2021, wherein the AO estimated the income of the assessee @8% by applying the provisions of Section 44AD of the Act on the turnover of Rs.6,67,98,896/-. The AO also brought to tax the interest income earned by the assessee from the bank account. It was the submission that on appeal, the Id. CIT(A) though deleted the reference of Section 44AD of the Act by the AO, however, upheld the addition. It was the submission by the Id. AR that he does not want to challenge the addition representing the bank interest. However, in regard to the issue of percentage of net profit, the Id. AR has placed before us the net profit disclosed by the assessee for the subsequent assessment years as follows :-

SHRI BANKULA JAGARAO, REDDY ITA NO. 182/CTK/2024, Assessment Year: 2015-16 CHART SHOWING NET PROFIT RATIO (As Per Income Tax Return)					
SL. NO.	Asst. year	Turn- over (Rs)	Net profit (Rs)	Net profit (%)	Remarks
1	2015-16	6,67,98,896	14,92,006	2.23%	Impugned year
2	2018-19	15,47,30,685	27,15,859	1.76%	P.B page- 199 accepted u/s 143(1)
3	2019-20	14,87,27,396	26,49,833	1.78%	P.B page- 216 accepted u/s 143(1)
4	2020-21	46,02,47,799	39,58,782	0.86%	P.B page- 233 accepted u/s 143(1)

3. It was the submission that the net profit for the relevant assessment year was 2.23% and for the subsequent assessment years which have been accepted in the intimation u/s.143(1) of the Act wherein from 0.86% to 1.76%. It was the submission that as the assessee itself has disclosed the net profit @2.23%, the returned income is liable to be accepted.

4. In reply, Id. CIT-DR vehemently supported the orders of the AO and CIT(A). It was the submission that the rate profit as adopted by the Id. AO and upheld by the Id. CIT(A) is reasonable.

5. We have considered the rival submissions. At the outset, Id. AR submitted that he does not want to challenge the addition representing the bank interest. Thus, ground raised by the assessee challenging the addition representing the bank interest is dismissed as withdrawn.

6. In regard to the issue of estimation of net profit, a perusal of the facts of the present case clearly shows that neither the AO nor the Id. CIT(A) has considered any comparative case for the purpose of determination of the rate of profit disclosed by the assessee. Normally, the best comparison to determine the net profit by the assessee would be earlier or the subsequent assessment years of the same assessee. In the present case, the impugned assessment year is the first year of assessee's business. A perusal of the facts also clearly shows that the assessee has shown the highest rate of net profit for the impugned assessment year. This being so, and considering the fact that the income of the assessee has been estimated, we are of the view that in the interest of justice, net profit of the assessee is liable to be estimated

@2.75% on the total turnover of the assessee after reduction of the airport rent cost, thormocol sheet cost and truck rent cost as there is no possibility of assessee earning any income out of the said expenses. Consequently, the AO is directed to estimate the income of the assessee @2.75% on the total turnover of the assessee i.e. Rs.5,63,82,203/- after reduction of the expenses regarding airport rent, thormocol sheet and truck rent, respectively.

7. In the result, appeal of the assessee is partly allowed.

Order dictated and pronounced in the open court on 24/06/2024.

Sd/-

(MANISH AGARWAL)

Sd/-

(GEORGE MATHAN)

लेखा सदस्य/ ACCOUNTANT MEMBER

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 24/06/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Bankula Jaga Rao Reddy,
Jagannathpur, Narendrapur,
Ganjam-760007
2. प्रत्यर्थी / The Respondent-
ITO, National Faceless Assessment Centre,
Delhi
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack