

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "B", JAIPUR  
श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 882/JP/2018  
निर्धारण वर्ष / Assessment Year :2013-14

M/s Ramanand Industries, F-151, Heerawala Industrial Area, Nayla Road, Kanota, Jaipur.	बनाम Vs.	Income Tax Officer, Ward- 7(3), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAJFR 1120 P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Ms. Suhani Mamodia (CA)  
राजस्व की ओर से / Revenue by : Shri Anup Singh (JCIT)

सुनवाई की तारीख / Date of Hearing : 19/11/2018  
उदघोषणा की तारीख / Date of Pronouncement : 20/11/2018

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 10/05/2018 of Id. CIT(A)-3, Jaipur for the A.Y. 2013-14. The assessee has raised following grounds of appeal:

- "1. On the facts and in the circumstances of the case, the A.O. rejected books of account thereafter Id. CIT(A) erred in sustaining the rejecting of books of account U/s 145(3), without proper basis which is unjustified.*
- 2. On the facts and in the circumstances of the case, the A.O. and CIT(A) erred in making trading addition of Rs.3,00,000/- which was further reduced only at Rs. 1,50,000 by the Id. CIT(A) without any basis, which liable to be quashed in entirety."*

2. Ground No. 1 of the appeal is regarding rejection of books of account U/s 145(3) of the Income Tax Act, 1961 (in short the Act).

3. We have heard the Id AR of the assessee as well as Id. DR and considered the relevant material on record. The Assessing Officer has rejected the books of account of the assessee on the ground that the inventory of opening stock and closing stock and its value are not verifiable due to the reason that the assessee filed the return of income for the A.Y. 2012-13 U/s 44AD of the Act and therefore, the proper books of account were not maintained by the assessee disclosing the closing stock which is to be taken as opening stock for the year under consideration. The Assessing Officer has further noted that the production expenses booked to the P&L account are not fully vouched and therefore the books of account are not giving a correct picture of the affairs of the assessee and the result being net profit.

4. The assessee challenged the said action of the Assessing Officer before the Id. CIT(A) but could not succeed. The Id. CIT(A) has confirmed the rejection of books of account by noting the fact that the Assessing Officer has pointed out the specific defects in the books of account.

5. Having considering the rival submissions and careful perusal of record, we find that the Assessing Officer has pointed out specific defects

in the books of account regarding the opening and closing stock and valuation. Further the expenses were not fully vouched and also day to day stock register was not found to be maintained by the assessee. Accordingly we do not find any error or illegality in the orders of the authorities below qua this issue and rejection of books of account is confirmed.

6. Ground No.2 of the appeal is regarding the trading addition of Rs. 3.00 lacs made by the Assessing Officer was restricted by the Id. CIT(A) to Rs. 1.50 lacs.

7. We have heard the Id. AR of the assessee as well as the Id DR and considered the relevant material on record. The Id. CIT(A) has considered this issue in para 5.3 as under:

*“5.3 I have carefully considered the material before me. I find that the Assessing officer made the addition of Rs.3,00,000/-. The A/R submitted that the trading result of the assessee for the year and immediately preceding year are as under: -*

	<i>Sales</i>	<i>GP</i>	<i>GP Ratio</i>
<i>AY 2013-14</i>	<i>1,34,80,953.25</i>	<i>24,91,060.33</i>	<i>18.47%</i>
<i>AY 2012-13</i>	<i>21,10,506.18</i>	<i>4,11,756.76</i>	<i>19.50%</i>

*The G.P rate is slightly decreased but the fall is very much justified from the multifold increase turnover.*

*Your honour, even the books are rejected than it is the established law that the estimation of profit should be made from fair estimation on the*

*fact and circumstances. Where the books of accounts are rejected the best guide is assessee's own history.*

*As I mentioned above the gross profit rate is slightly lower as compare to the last year and this could be very well justified form the manifold increase in the turnover.*

*I am also herewith enclosing a chart showing expenses with percentage on gross turnover for the year end and immediately preceding year.*

*You may appreciate here that almost all the expenses are lower in terms of percentage in comparison to last year therefore the gross trading result declared by assessee does not deserve to be enhanced.*

*Your honour Hon. Rajasthan High Court held in case of Gotan Lime Khanij Udyog page no 26 Tax World 205 even the books are rejected in that case such rejection does not give automatic mandate to enhance the trading results. The best estimation is derived from assessee own results and it should be appreciate.*

*Considering the above facts I find that the turnover of the appellant also increase from Rs.21,10,509/- to Rs. 1,34,80,953/- almost 6 time which is the main reason for decline the profit rate. Therefore considering the above facts and past history of the case I am the opinion that the addition made by the Assessing office of Rs.3,00,000/- is higher side considering the totally of the case and increase in turnover I restrict the trading addition Rs. 1,50,000/-. Accordingly I confirm trading addition of Rs. 1,50,000/- and balance amount of Rs. 1,50,000/- is deleted. This ground is partly allowed.”*

Thus, it is clear that the Id. CIT(A) has accepted the fact that for the year under consideration, the turnover of the assessee has increased for more

than six times whereas there is only insignificant decrease in the G.P. ratio declared by the assessee for the year under consideration. From the comparative details as reproduced by the Id. CIT(A) in the finding reproduced (supra), it is clear that there is no significant decline in the G.P. ratio which is less than 1% whereas the turnover of the assessee has increased six times during the year under consideration in comparison to the earlier years. Hence, it is settled proposition of law that even if the books of account are rejected U/s 145(3) of the Act, it would not ipso facto result to an addition except the income estimated on some reasonable and proper basis lead to an addition. In the case in hand, neither the Assessing Officer nor the Id. CIT(A) has undertaken any exercise to estimate the income of the assessee on some proper and reasonable basis and therefore the ad hoc addition made by the Assessing Officer as well as the Id. CIT(A) is not permissible under the provisions of the Act. After rejection of books of account, the Assessing Officer was mandated to estimate the income of the assessee on some proper and reasonable basis. The past history of the declared G.P. is considered as a reasonable and proper guidance for estimation of the income. In absence of any estimation made by the Assessing Officer, the ad hoc addition made by the authorities below is not sustainable. Accordingly, in the facts and circumstances of the case when there is no significant or noticeable

decline in the G.P. in comparison to the earlier year whereas there is a significant increase of six times in the turnover. The said insignificant decline in the G.P. cannot be a reason for an addition. Accordingly we delete the addition made by the Assessing Officer.

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

Order pronounced in the open court on 20/11/2018.

Sd/-  
(विक्रम सिंह यादव)  
(VIKRAM SINGH YADAV)  
लेखा सदस्य / Accountant Member

Sd/-  
(विजय पाल राव)  
(VIJAY PAL RAO)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur  
दिनांक / Dated:- 20<sup>th</sup> November, 2018

\*Ranjan

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

1. अपीलार्थी / The Appellant- M/s Ramanand Industries, Jaipur.
2. प्रत्यर्थी / The Respondent- The ITO, Ward- 7(3), Jaipur.
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. 882/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar