

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT

[CONDUCTED THROUGH VIRTUAL COURT]

**Before: Ms. Suchitra Kamble, Judicial Member
And Shri Waseem Ahmed, Accountant Member**

**ITA No. 222/Rjt/2016
Assessment Year 2008-09**

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| Raghuvanshi Cotton Ginning & Pressing Pvt., Survey No. 34, Rajkot-Jamnagar Highway, Near Bharat Hotel, At Paddhari, District-Rajkot. PAN: AADCR1961K (Appellant) | Vs | Addl. CIT, Range-2, Rajkot (Respondent) |
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Assessee by: None

Revenue by: Shri Abhimanyu Singh Yadav, Sr. D.R.

Date of hearing : 20-12-2023

Date of pronouncement : 03-01-2024

आदेश/ORDER

PER : SUCHITRA KAMBLE, JUDICIAL MEMBER:-

This is an appeal filed against the order dated 21-03-2016 passed by ld. CIT(A)-2 for assessment year 2008-09.

2. The grounds of appeal are as under:-

“1. The grounds raised in this appeal are without prejudice to one another.

2. The order under appeal passed by the learned CIT (Appeals) is bad in law, without jurisdiction deserves to be quashed.

3. The learned AO grievously erred in law and on facts in making the addition of Rs. 21381988 and Rs. 5262186 in respect of estimation of GP and disclosure of excess stock and the learned CIT (Appeals) grievously erred in law and on facts in retaining the said two additions. The same are unwarranted on facts and bad in law and deserves to be deleted.

4. The learned AO and learned CIT (Appeals) erred in law and on facts in holding that the provisions Sec-145 are applicable.

5. The learned AO and the learned CIT (Appeals) erred in making various incorrect averments in their respective orders and proceeded on erroneous, presumption and premises, and it is contended that the two additions made to the returned income deserves to be deleted.

6. It is contended that the assessee had cooperated in the assessment and the appeal proceedings and the averments in this regard made by the respective authorities are objected to.

7. The submission and the material filed in the course of proceedings have not been considered in its proper perspective and the additions of Rs. 21,381,986/- and Rs. 52,82,886/-, made on suspicion and surmises, deserves to be deleted.

8. The various material filed has not been considered or has not been considered in its proper perspective and the additions upheld by the learned CIT (Appeals) deserves to be annulled/deleted.

9. Without prejudice the amount of Rs.52,62,186/- has been duly accounted for as excess stock in the books. The addition thereof made in the assessment order amounts to double taxation of the same item of income

10. Your appellant craves leave, to add, alter and or amend any of the grounds stated here above.”

3. The return of income assessing total income of Rs. 67,95,200/- was filed on 30-09-2008. The return of income accompanied with audit report in Form No. 3CA and Form No. 3CD. Notice u/s. 143(2) was issued on 25-08-2009 which was duly served upon the assessee on 07-09-2009. Notice u/s. 143(2) along with notice u/s. 142(1) were also issued on 09-06-2010 and duly served upon the assessee. The Authorized Representative of the assessee submitted the details i.e. copy of some details of fixed assets purchased during the year and ledger account of unsecured loans from its books of accounts, but the Assessing Officer observed that that these details were not built. The Authorized Representative of the assessee on the date of hearing submitted that the auditor committed a mistake while preparing annexure I part B confirming part of the audit report and through oversight has shown written part in part B. In support of his claim, the assessee produced audit of preceding year along with the audited

accounts. The turnover and gross profits were increased in the preceding year. The Assessing Officer observed that during the year under consideration, the assessee is engaged in the business of ginning and pressing of cotton under the name and style of M/s. Raghuvanshi Cotton Ginning & Pressing Pvt. Ltd. The assessee has shown gross profit of Rs. 7,69,01,872/- on a total turnover of Rs. 122,85,48,255/-. The cost of profit shown by the assessee includes an amount of Rs. 52,62,186/- disclosed during the course of survey on 17/19-01-2008. The Assessing Officer estimated the gross profit ratio at 8% instead of 6.25% as declared by the assessee. Thus, the Assessing Officer made addition of Rs. 2,13,81,988/- which is a difference. The Assessing Officer also made addition of Rs. 52,62,186/- towards excess stock.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. At the time of hearing none appeared on behalf of the assessee despite giving several notices and in fact the last adjournment request was filed on 22-06-2021 and after that none appeared for several occasions and on 15th March, 2022 the cost was earlier imposed cost but none appeared thereafter also cost was also not paid. Therefore, we are taking up this matter on the basis of the submissions quoted in assessment order as well as the CIT(A) order of the assessee.

6. The Id. Departmental Representative relied upon the order of the assessment order and the order of the CIT(A).

7. We have heard Id. Departmental Representative and perused all the relevant materials available on record. The submissions before the Assessing Officer made by the assessee was that the assessee company disclosed the estimated GP and has also given the details of the earlier GP. The reason for variation in GP rate for the first period upto date of survey i.e. 01-04-2007 to 18/19-01-2008 is that the stock list was prepared on the date of survey. In the said stock list, the rate adopted after taking average GP of 3.3%. This contention of the assessee was dealt by the Assessing Officer in his remand report and the CIT(A) has categorically held in para 6 that by not producing books of accounts and requested details called for as per questionnaire. The Assessing Officer after rejecting the book result has categorically estimated the profit of business on the basis of data available on records. The Assessing Officer has rightly estimated the gross profit by applying fair and reasonable ratio of gross profit at 8% instead of 6.25%. There is no need to interfere with the finding of the Assessing Officer as well as that of CIT(A). As regards, addition of Rs. 52,62,186/- in respect of excess stock duly recorded in the books of the assessee, the CIT(A) has categorically mentioned that the assessee has not explained the source of expenditure and therefore confirmed the addition. The discrepancy in stock was also accepted by the director of the company and thus the addition made u/s. 69B as

undisclosed stock was rightly confirmed by the CIT(A). Thus, the appeal of the assessee is dismissed.

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

Order pronounced in the open court on 03-01-2024

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad : Dated 03/01/2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,
Income Tax Appellate Tribunal,
Rajkot