

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
&
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

I.T.A No.1155/DEL/2020
Assessment Year 2013-14

Blue Stampings & Forgings Ltd., Plot No.12, Sector 25, Faridabad.	v.	Dy. Commissioner of Income Tax, Faridabad.
TAN/PAN: AAACB9348K		
(Appellant)		(Respondent)

Appellant by:	Shri K.C. Singhal, Adv.		
Respondent by:	Shri P. Praveen Sidharth, CIT-DR		
Date of hearing:	05	01	2023
Date of pronouncement:	23	01	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Assessee seeking to assail additions of Rs.33,11,185/- confirmed by the CIT(A) on account of fall in net profits.

2. Briefly stated, the assessee is engaged in the business of manufacturing of rough iron forgings and machining parts of vehicles. A survey under Section 133A of the Act was carried out on 20.12.2012 where certain disclosures were made by the assessee. The Assessee filed return of income declaring Rs.2,78,37,670/- for the Assessment Year 2013-14 in question which was subjected to scrutiny assessment. The Assessing Officer while framing the assessment *inter alia* made certain additions on account of lower net profits percentage by invoking

Section 145(3) of the Act. The amount of addition was subsequently revised under Section 154 of the Act and eventually an addition of Rs.33,11,182/- was retained on the grounds of lower reporting of net profit.

3. The assessee challenged the aforesaid action of the Assessing Officer before CIT(A). The CIT(A) did not embrace the plea of the assessee and found justification in rejecting the books under Section 145(3) of the Act by the Assessing Officer. The additions thus made on account of low net profit was confirmed by the CIT(A).

4. Aggrieved, the assessee preferred appeal before the Tribunal.

5. When the matter was called for hearing, the ld. counsel for the assessee submitted at the outset that the additions of Rs.33,11,182/- on account of marginal fall in net profit in question is wholly without any basis made and sustained on flimsy grounds. It was pointed out that the Assessing Officer has invoked the provisions of Section 145(3) and rejected the books of account without showing any defect in the audited books of account. It was submitted that the reasons given by the Assessing Officer for applying the provisions of Section 145(3) are that (i) net profit rate declared by the assessee is 6.15% as compared to 6.52% net profit cloaked in the immediately preceding year (ii) the photocopies of vouchers relating to the expenses were produced instead of original bills.

6. In this regard, the ld. counsel submits that the accounts of the assessee are audited and the difference between the net

profit rate declared by the assessee vis-à-vis immediately preceding year is very marginal. The net profit for the year is 6.15% whereas the net profit in the earlier year was 6.52%. Thus, in such a scenario, it is difficult to explain such variation in net profit with any arithmetical precision. The turnover reported during the year is Rs. 90.30 crore on which the profit of Rs.5.49 crore has been declared. The CIT(A) himself in paragraph 18 of the appellate order admitted the fact of slight decline in net profit. The Assessing Officer has not pointed out any specific defect or discrepancy or any abnormal variation in various expenses. The sole basis for making such estimated addition is that original bills and vouchers were not produced before the Assessing Officer and thus the completeness of books of account is not established. The Id. counsel next adverted to paragraph 1 of the assessment order and submitted that it is an admitted fact by the Assessing Officer himself that assessee has attended the assessment proceedings diligently and filed necessary details/information as called for. It was thus submitted that the estimated additions made are contrary to such observations and merely because some bills produced before the Assessing Officer might be a photocopy, this by itself will not give rise to any suspicion on the completeness of books disregarding tangible facts such as availability of audited accounts and transactions. Secondly, there is no marked difference in the net profit ratio and on the contrary, gross profit ratio is more than the ratio shown in the earlier year on comparative basis. The Id. counsel submits that Hon'ble Delhi High Court in *CIT vs. Paradise Holidays, 323 ITR 13 (Del)*

squarely covers the case of the assessee in its favour in the similar factual matrix. The ld. counsel submits that the invocation of Section 145(3) cannot be done casually to dislodge the financial records without showing the incompleteness *per se* in such records. The accounts were duly audited and did not carry any qualification and therefore, an ordinary presumption would be that such books of account are correct, reliable unless shown to the contrary. The Assessing Officer has not embarked upon any inquiry based on alleged photocopy of the bills nor asked for production of original bill of particular transaction specifically. The ld. counsel thus contended that the endorsement of the action of the Assessing Officer by the CIT(A) is casual and contrary to the factual matrix as well as the legal position enunciated by the Hon'ble Delhi High Court in the case of *CIT vs. Paradise Holidays (supra)* and other judgments. The ld. counsel thus urged for indulgence of the Tribunal in respect of such unjustified addition.

7. The ld. DR for the Revenue on the other hand relied upon the action of the Assessing Officer and CIT(A) and submitted that the onus was on the assessee to furnish the supporting documents in original to vouch the authenticity of the books of accounts. The Assessing Officer has rightly invoked Section 145(3) in the absence of discharge of onus by the assessee and was thus justified in embarking upon estimated additions.

8. We have carefully considered the rival submissions. The estimation of profits consequent upon rejection of books under Section 145(3) is subject matter of controversy. It is the case of

the Revenue that the assessee has failed to produce original invoices/vouchers to prove the completeness of the books of account and therefore, books of account have been rightly rejected under Section 145(3) of the Act. In the factual set up, we straightaway take note of the assertions made on behalf of the assessee that net profit rate declared by the assessee is 6.15% as compared to 6.52% in the earlier year. Thus, there is no striking discrepancy in the net profit ratio. Incidentally, it is the case of the assessee that the gross profit declared during the year compares higher than the gross profit in the earlier year whereas some marginal drop in the net profit has happened on account of higher depreciation and interest on loan for acquisition of fixed assets. The Hon'ble Delhi High Court in the case of *Paradise Holidays (supra)* has enunciated the circumstances where invocation of Section 145(3) would not be justified. The Assessing Officer in the present case has not shown as to how audited the books of account maintained by the assessee are incorrect or otherwise incomplete which is likely to vitiate the true profits of the assessee. It is also not the case of the Assessing Officer that entries in respect of certain transaction are altogether omitted or found incorrect. No inherent lacuna in the system of accounting is shown either.

9. The Assessing Officer in our view is not justified in taking drastic action of rejection of books of account which are audited and are without any qualification solely on the basis of general remarks that photocopy of the bills have been produced instead of original bills. No specific instance has been provided in the order to appreciate as to how such delinquency on the part of

the assessee has resulted in unreliability of books *per se*. Admittedly, the photocopies of bills and vouchers were duly produced, the Assessing Officer has not made any independent inquiry on the correctness of the bills from third parties. The profits declared in the instant case being in the vicinity of the profits declared in the earlier years, we see no apparent justification whatsoever in the action of the Revenue.

10. The insignificant variation in net profit ratio *per se* cannot in our opinion lead to drastic action of rejection of audited books without anything more. We find traction in the plea of the assessee that no justifiable reasons are available to reject the books and embark upon estimations. We thus set aside the action of the CIT(A) and direct the Assessing Officer to restore the position taken by the assessee in this regard.

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

Order pronounced in the open Court on 23/01/2023.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

DATED: /01/2023

Prabhat

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER