

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
And
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA Nos. 6188 & 6189/DEL/2025 (AY 2013-14)

Mohd. Gulzar,
T – 444, Ahata Kidara,
Gali Pahar Wali, Sadar Bazar,
New Delhi – 110 006.

vs. ITO, Ward 63(5),
New Delhi.

(PAN : AGUPG8688A)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Mohd. Ehtesham, CA & Sh. Abhinav Jijh, CA
REVENUE BY : Shri Pramod KumAR, Sr. DR.

Date of Hearing : 16.03.2026

Date of Order : 08.04.2026

ORDER

PER SUDHIR KUMAR, JM :

1. These are quantum as well as penalty appeals filed by the assessee against the separate orders of the ld. Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi [for short 'ld. CIT (A)] for the Assessment Year 2013-14.
2. Brief facts of the case are, the ITAT vide its order dated 30.6.2022 in ITA no. 1713/Del/2019 had remanded the assessee's assessment case (order u/s. 143(3) dated 15.3.2016) to the AO for fresh assessment with the directions to examine and determine the real turnover of the assessee. During the course of set aside assessment proceedings, notice(s) u/s. 142(1) of the Act was issued to the assessee asking him to furnish details

and relevant supporting documentary evidences in support of his returned income. In response to which, the assessee filed submission with requisite documents. However, on perusal of the same, it was found by the AO that the assessee had not furnished satisfactory explanation and complete documents. Therefore, according to AO, the issue of net income remained unexplained and unverifiable. Thus, a show cause notice was issued on 16.3.2023 to the assessee asking him to show cause as to why his net estimated income taken at Rs. 7,35,74,277/- i.e. 2% of the total sales of Rs. 3,67,87,13,883/- in the assessment proceedings u/s. 143(3) of the Act passed on 15.3.2016, should not be taken as per the set aside / reassessment proceedings. However, the assessee failed to furnish reply / submission alongwith relevant supporting documentary evidences in support of the claim of the net incomes on the sales /turnover. Hence, in the absence of the supporting documentary evidences, the issue of net estimated income taken at Rs. 7,35,74,277/- i.e. 2% of the total sales /turnover of Rs. 3,67,87,13,883/- as per the assessment order passed u/s. 143(3) of the Act on 15.3.2016, was still found be unexplained by the assessee. Therefore, the net estimated income of the assessee at Rs. 7,25,73,237/- was added to the returned income of the assessee and the total income was assessed at Rs. 7,35,74,277/- vide assessment order passed on 27.3.2023. Against the action of the AO, assessee preferred appeal before the Ld. CIT(A), who vide his order dismissed the appeal of the assessee.

3. Aggrieved assessee is in appeal before us argued the following solitary ground:-

“Arbitrary estimation of income at 2 per cent of turnover. That the Ld. Authorities erred in sustaining addition of Rs. 7,25,73,237/- by estimating income at 2 per cent of turnover of Rs. 367.87 crores on adhoc basis, without any cogent material or evidence, thereby

ignoring the assessee's consistent practice of earning commission at 15 to 20 paise per kg of meat supplied.”

4. At the time of hearing, Ld. AR for the assessee has filed a chart showing the Gross Profit for the preceding assessment year 2012-13 @ 0.29% which was estimated by the Tribunal @0.40% vide its order dated 8.10.2025 in assessee's own case in ITA NO. 4097/Del/2024 (AY 2012-13), hence, it was submitted that in the instant year i.e. AY 2013-14, the assessee has shown Gross Profit @0.16%, thus, it was prayed to estimate the same on the similar lines @ 0.30%, in view the aforesaid decision of the Tribunal.
5. On the other hand, ld. DR of the Revenue relied on the findings of the lower authorities.
6. Heard both the sides and perused the records. We find that the Tribunal in assessee's own case in preceding year viz. assessment year 2012-13 vide order dated 8.10.2025 passed in ITA NO. 4097/Del/2024 on identical facts and circumstances of the case, has estimated the GP @0.40% of the gross sales by holding as under:-

“8. *Considered the rival submissions and material placed on record. We observe that the assessee has declared huge turnover of Rs.165.23 crores and also declared huge purchases and declared a GP of 0.29%. It is also observed that GP declared by the assessee is same as declared in the preceding assessment year of 0.21%. From the facts available on record, we observe that assessee purchases live stock from the farmers/local markets and supplies the same at the indent raised by the Allana Group. From the records, we observe that Allana Group raises the indent to the assessee and assessee purchases the live stock and accordingly supplies the carcass/meat/bones to the Allana Group. The main purchaser in this transaction is only Allana Group. Since the Allana Group cannot purchase directly from the*

villages/local markets, in order to regularize the purchases they appoint middleman/pass through entities like assessee who manages the purchases on behalf of the Allana Group and supplies the same. From the books and records brought on record, we observe that Allana Group makes the payment as advances to the assessee and they adjust the same according to the indent raised by them. Therefore, there is no risk involved in the purchase/processing of the carcass/meat to the assessee. That being the case, the assessee was compensated with competitive percentage of commission or compensation for processing of purchase, rather it can be considered that the compensation is towards regularization of the purchases. From the profit & loss account submitted before us, it indicates that assessee has very little control over the process. It is noticed that the assessee has got very little administrative expenditure and it is fact on record that assessee is only a pass through entity functions with a thin margin of purchase commission.

- 9. Since the assessee has already submitted modus operandi and process of purchase and sale before the lower authorities, Assessing Officer could have verified the same information by calling information from Allana Group by issue of notice u/s 133(6) of the Act in the second round of proceedings. From the record, the Assessing Officer has merely asked for information from the assessee and assessee is only a pass through entity having information relating to indent raised by Allana Group, assessee has to purchase the live stock from the villagers and all these transactions are being done only through cash. The assessee is involved in the live stock, this transaction is already exempt under Rule 6DD of the Income-tax Rules, 1962. That being the case, what is relevant is the sales invoice raised to the Allana Group is the main document which assessee has already submitted*

before the lower authorities. From the modus operandi, it is clear that assessee is only involved and working for Allana Group who are utilising the services of the assessee only to regularize their purchases. Therefore, after considering the financial statements, the assessee is regularly declaring the GP of 0.29%. It is also brought on record that on similar facts on record, the coordinate Bench in ITA Nos.1045 & 1046/Del/2018 has sustained the addition of 0.50% relying on similar cases. After considering the facts on record and case laws relied before us, we observe that the GP in the similar line of business relating to live stock the estimated income by the coordinate Bench at 0.50%. The cases will vary case to case basis and the coordinate Bench has decided the issue of turnover of independent live stock dealer @ 0.50% whereas when dealing with the big group with high turnover, the same margin cannot be expected. Therefore, in the given case, assessee is declaring around 0.29% consistently over the years. For the sake of overall justice, we are inclined to estimate the GP of 0.40% of the gross sales.”

7. After considering the aforesaid findings, it transpires that assessee is regularly declaring the GP of 0.29%, hence, the Tribunal in assessment year 2012-13 estimated the GP 0.40% of the gross sales. Therefore, respectfully following the precedent, as aforesaid, for the sake of substantial justice, we are inclined to estimate the GP of 0.40% of the gross sales in the instant assessment year viz. AY 2013-14.

8. In view of our aforesaid decision, levy of interest u/s. 234A, 234B and 234C are not sustainable, being consequential in nature, hence, need not be adjudicated at this stage.

9. In the result, ITA No. 6188/Del/2025 appeal filed by the assessee is partly allowed.

10. As regards penalty appeal being ITA No. 6189/Del/2025 (AY 2013-14) is concerned, since we have given substantial relief to the assessee in quantum appeal by partly allowing the appeal of the assessee, as aforesaid, hence, the imposition of penalty for furnishing inaccurate particulars of income is not justified, in view of the decision of the Hon'ble High Court in the case of CIT vs. Aero Traders (P) Ltd. [2010] 322 ITR 316 (Delhi) dated 25.01.2010 wherein, the Court has observed in the Heads Notes as under:-

“Where profit was estimated after rejection of books and in quantum appeal substantial relief was given by Commissioner (Appeals) and Tribunal, imposition of penalty for furnishing inaccurate particulars of income was not justified (in favour of assessee)”

10.1 Respectfully following the aforesaid precedent, the penalty in dispute is deleted and penalty appeal of the assessee is allowed in the aforesaid manner.

11. In the result, the appeal No. 6188/Del/2015 stands partly allowed and appeal No. 6189/Del/2015 is allowed.

Order pronounced in the open court on this 08th day of April, 2026.

Sd/-

**(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(SUDHIR KUMAR)
JUDICIAL MEMBER**

**Dated :08.04.2026
SRBHATNAGGAR**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals), New Delhi.
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**