INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No. 5708/Del/2016
(Assessment Year: 2010-11)

GRP Auto, 19, Rajasthani Udyog Nagar, GT Karnal Road, Delhi	Vs.	JCIT, Range-19, New Delhi
(Appellant)		(Respondent)
PAN: AAFFG6813L		

Assessee by :	Shri RK Gaur, CA
Revenue by:	Ms. Harpreet Kaur Hansara, Sr. DR
Date of Hearing	10/03/2026
Date of pronouncement	24/04/2026

<u>O R D E R</u>

<u>PER M. BALAGANESH, A. M.:</u>

1. The appeal in ITA No.5708/Del/2016 for AY 2010-11, arises out of the order of the ld. Commissioner of Income Tax (Appeals)-12, New Delhi [hereinafter referred to as 'ld. CIT(A)', in short] dated 08.07.2016 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 07.03.2013 by the Assessing Officer, JCIT, Range-19, New Delhi (hereinafter referred to as 'ld. AO').

2. The only issue to be decided in this appeal is as to whether the Learned CITA was justified in confirming the addition made on account of inventory in the facts and circumstances of the instant case. The interconnected issue involved therein is as to whether the Learned CITA was justified in upholding the action of the Learned AO in rejecting the books of accounts and book results of the Assessee under section 145(3) of the Act in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The return of income for the assessment year 2010-11 was filed by the Assessee Firm declaring total income of Rs 4,36,31,310 on 26-09-2010. The Assessee Firm is engaged in the business of trading in auto parts. The Assessee belongs to a group of Assessees which are all into the business of manufacturing and trading of auto parts. The details of sister concerns of the Assessee Firm are as under:-

S.No	Name of sister concern	PAN	Business Activity
1.	Swiss Auto Products	AARPS6458D	Manufacturers of auto parts
2.	Swiss Lamps Pvt. Ltd.	AAJCS1745E	Manufacturers of auto parts
3.	Swiss Auto Pvt. Ltd.	AAFCS5788K	Manufacturers of auto parts
4.	Swiss Devices (1)	ABHFS7066A	Manufacturers of auto parts
5.	Taruna Auto Pvt. Ltd.	AAACT4706F	Trading of auto parts

4. The Assessee had made major purchases from the above sister concerns, which are manufacturing auto parts and hence, same was subjected to test by applying the provisions of section 40A(2) of the Act by the Learned AO. During the year under consideration, a survey action under section 133A of the Act was carried out in the business premises of the Assessee on 21-01-2010 wherein, pursuant to the discrepancy found by the survey team, a declaration of additional income was made by the Assessee towards the following:-

a) on account of excess cash found - Rs 1,15,16,100

b) on account of excess stock found - Rs 1,75,98,542

c) on account of undisclosed investment in furniture and fixtures - Rs 2,27,29,200

5. The main grievance of the revenue was that the total additional income surrendered by the Assessee was Rs 5,18,43,842 whereas the return of income was filed declaring total income of Rs 4,36,31,310. The additional income offered by the Assessee towards excess stock of Rs 1,75,98,542 was incorporated by the Assessee in the profit and loss account under the head "Sales and Other Income" and after considering the same, the Assessee earned gross profit of Rs 8,42,95,900 which was worked out to 10.79%. The Learned AO observed that excess income offered on account of excess stock to be taxed only as income from other sources and hence the same cannot be considered as business income of the Assessee and consequently, the same should not be considered for the purpose of working out the gross profit. Accordingly, the Learned AO by ignoring the value of income on account of excess stock of Rs 1,75,98,542 arrived at the gross profit of Rs 6,66,97,358 which worked out to 8.53% of turnover. The Learned AO compared this gross profit of 8.53% with the gross profit for the immediately preceding year at 9.92%. The Learned AO added a sum of Rs 1,08,51,505 being the difference in gross profit margin disclosed by the Assessee for the year under consideration when compared to with the last year as under:-

a) GP for Assessment Year 2009-10	9.92%
b) GP of current year excluding additional income on account of excess stock	8.53%
c) Difference (a) – (b)	1.39%
d) Turnover of the Assessee	Rs 78,06,83,867
e) Differential gross profit (c) * (d)	Rs 1,08,51,505

6. The Learned AO observed that the additional income offered by the Assessee on account of excess stock of Rs. 175,98,542 surrendered by the Assessee during the course of survey was not shown by the Assessee in the trading account by including it in the closing stock and that the same was offered to income tax only as other income. Hence, the said surrender is not

included in the closing stock as on 31-03-2010 at Rs. 450,31,614. The Assessee furnished details of closing stock of Rs. 450,31,614. The Learned AO observed that while what the Assessee had surrendered at the time of survey was the value of inventories found during survey in excess over the stock as per books of accounts as on 21-01-2010 and not the value of particular item of stock. The Learned AO justified the additional amount on account of difference of Rs. 108,51,505 by taking sample of 10 invoices of purchase and sales made by the Assessee and arrived at the corresponding gross profit percentage thereon, wherein he found that the gross profit earned thereon were much more than 8.53% in all the cases. Further, the Learned AO noted that the Assessee had made majority of the purchases from sister concern i.e. M/s Swiss Devices (I) which was claiming deduction under section 80IC of the Act showing exorbitant GP of 32.08% and net profit of 28.81% which means that expenses debited to its profit and loss account was just 3.27% of the sales as against 9.6% of the sales in Assessee's case. The Learned AO also observed that gross profit shown by the Assessee for the period 1-4-2009 to 21-01-2010 was 8.73% whereas the gross profit shown by the Assessee from 22-01-2010 to 31-03-2010 was only 7.85%. Based on these observations, the Learned AO proceeded to reject the books and book results of the Assessee to the extent of closing stock and made addition towards the difference in gross profit of Rs. 108,51,505 as explained supra. This action of the Learned AO was upheld by the Learned CITA.

7. At the outset, we find that one of the main basis for the Learned AO to resort to rejection of books of accounts and book results of the Assessee under Section 145(3) of the Act was that Assessee had made major purchases from its sister concern. There has been some allegation leveled on the Assessee on the aspect that the purchases made from the sister concern

had been made at excessive price and the revenue had sought to invoke the provisions of Section 40A(2)(b) of the Act for the same. But the Learned AO before us had placed on record evidence to prove that the said sister concern is a section 80IC eligible undertaking and the sales made by such sister concern to the Assessee was subjected to claim of deduction under Section 80IC of the Act for the said sister concern and the said claim of deduction under Section 80IC of the Act had been duly granted by the revenue in the hands of the said sister concern. To prove this fact , the Learned AR drew our attention to page 389 of the paper book volume II which contain the assessment order framed in the hands of the sister concern under Section 143(3) of the Act dated 12-3-2013. We find that no adverse inference was drawn by the revenue in the hands of the sister concern while granting deduction under section 80IC of the Act and the alleged excessive sales made by them to Assessee was not disturbed or even whispered. Hence the reasoning of the Learned AO on this aspect fails.

8. Further, yet another reason adopted by the Learned AO to reject the book results and books of accounts of the Assessee was that the quantitative details were not furnished by the Assessee during the course of assessment proceedings. This fact is found to be incorrect as Assessee had indeed furnished the quantitative details before the Learned AO as is evident from evidences enclosed in pages 225 to 277 of the paper book. Hence, all these facts collectively prove that the action of the Learned AO in resorting to reject the books of accounts and book results of the Assessee per se is bad in law. This is not a fit case to invoke the provisions of Section 145(3) of the Act. Hence, the ground numbers 2 and 3 raised by the Assessee are hereby allowed.

9. The ground numbers 1 and 5 raised by the Assessee are general in nature and does not require any specific adjudication.

10. Pursuant to our decision in Ground Nos. 2 and 3 supra, we hold that there cannot be any adhoc adoption of GP rate for determining the income of the Assessee. The GP rate obviously cannot remain the same for post survey and pre-survey period as the prices of the products fluctuate periodically based on market conditions and there cannot be any uniform pricing mechanism or uniform gross profit rate that could be maintained throughout the year. No doubt, the survey conducted by the revenue did fetch additional income from the side of the Assessee to the exchequer which had been duly disclosed at the time of survey and considered in the return filed after the survey. Obviously the Assessee would have to bring the additional stock found in the survey in its books and the said stock would get included in the closing stock, if not sold, at the lower of cost or market price in accordance with Accounting Standard -2 (AS-2) issued by the Institute of Chartered Accountants of India (ICAI) which is in accordance with generally accepted accounting principles. Hence there is no question of making any estimate of gross profit on an adhoc basis by the revenue. Accordingly, the Ground No. 4 raised by the Assessee is allowed.

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

Order pronounced in the open court on 24/04/2026.

-Sd/-	**-Sd/-**
(SATBEER SINGH GODARA)	**(M BALAGANESH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 24/04/2026
A K Keot

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1. Applicant
2. Respondent