$~12 to 14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 919/2019

SRI RAGHUNATH JI & SONS ..... Appellant

Through: Mr.K.R.Manjani and Mr.Tarun Ashwani, Advs.

versus

INCOME TAX OFFICER WARD 47(1) NEW DELHI ..... Respondent

Through: Mr.Shlok Chandra, Sr.SC with Ms.Madhavi Shukla, Jr.SC, Ms.Priya Sarkar, Jr.SC and Mr.Ujjwal Jain, Adv.

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\+ ITA 923/2019

SHRI RAGHUNATH TRADERS ..... Appellant

Through: Mr.K.R.Manjani and Mr.Tarun Ashwani, Advs.

versus

INCOME TAX OFFICER WARD 29(1) NEW DELHI ..... Respondent

Through: Mr.Shlok Chandra, Sr.SC with Ms.Madhavi Shukla, Jr.SC, Ms.Priya Sarkar, Jr.SC and Mr.Ujjwal Jain, Adv.

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\+ ITA 25/2021

M/S R.L.TRADERS ..... Appellant

Through: Mr.K.R.Manjani and Mr.Tarun Ashwani, Advs.

versus

INCOME TAX OFFICER WARD 29(1) ..... Respondent

Through: Mr. Abhishek Maratha, Sr.SC with Mr. Parth Semwal and Ms. Nupur Sharma, Advs.

**CORAM:**
**HON'BLE MR. JUSTICE YASHWANT VARMA**
**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**O R D E R**

**%** **21.02.2024**

1. The instant appeals are directed against the order of the Income Tax Appellate Tribunal **["ITAT"]** dated 02 August 2019 in ITA 919/2019 and ITA 923/2019 and the order dated 31 January 2020 in ITA 25/2020 and has proposed the following question of law for our consideration:

> "Ld. Tribunal order is perverse, the addition being without any material, ignoring the fact of maintenance of quantitative tally, fully vouched audited books in which there is no defect and ignoring history of no trading addition".

2. We find that the ITAT while dealing with the aforesaid aspect has taken into consideration the Gross Profit ["**GP**"] rate of 10% which was suggested and adopted by the AO as against 4.39% which was set up by the assessee.

3. On an overall consideration of the facts as they obtained on the record, coupled with the undisputed position that the stock registers were not maintained on a daily basis, the ITAT has accorded substantial relief to the assessee and restricted the addition to Rs.2 lakhs on an estimated basis.

4. While dealing with this question, the ITAT has observed as follows:-

> " 11. I have considered the rival arguments made by both the sides, perused the orders of the Assessing Officer and the CIT(A) and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me. I find the Assessing Officer adopted the GP rate at 10% as against 4.39% shown by the assessee on, the ground that assessee has not maintained any stock register

> and the closing stock was certified by the partners on the basis of verification of physical stock. I find the Ld. CIT(A) relying on various decisions upheld the action of the Assessing officer. It is the submission of the Ld. Counsel for the assessee that although assessee has not maintained any stock register however the accounts are maintained in such a way that quantitative details can be arrived at any point of time since quantity is given in purchase and sales register. In my opinion an assessee who is not maintaining any stock register cannot be equated with an assessee who maintenances a stock register on day today basis giving quantitative details of items traded. Further in the instant case I find the GP rate in the instant case has gone up although the turnover has significantly gone down to Rs.5.35 crores as against Rs.7.4 crores in the preceding year. When the turnover falls down substantially it is quite-possible that the GP rate may go down. However, in the instant case the GP rate has gone up. However, as mentioned earlier an assessee not maintaining any stock register cannot be equated with an assessee maintaining stock register giving full details. Therefore, deleting the entire trading addition as argued by the Ld. Counsel for the assessee in my opinion cannot be accepted. Considering the totality of the facts of the case I am of the considered opinion that addition of Rs.2 lacs on estimated basis for possible leakage of revenue due to non maintenance of stock records will meet the ends of justice. I, therefore, direct the Assessing Officer to restrict the addition to Rs.2 lakhs as against Rs.32,12,706/- made by him and upheld by the CIT(A). The grounds raised by the assessee are accordingly partly allowed."

5. We are thus of the opinion that the view taken by the ITAT merits no interference. We find that the appeals raise no substantial question of law.

6. The appeals shall consequently stand dismissed.

**YASHWANT VARMA, J.**

**PURUSHAINDRA KUMAR KAURAV, J.**

**FEBRUARY 21, 2024/MJ**