Enhancement of gross profit rate was justified when assessee failed to produce bills and vouchers of purchases

Summary – The Delhi ITAT in a recent case of Vikas Gutgutia., (the Assessee) held that where assessee was unable to produce bills and vouchers relating to purchases, Commissioner (Appeals) was justified in application of GP rate of 15 per cent on declared sales as against 9.27 per cent declared by assessee instead of making addition of whole amount of purchase to cover leakage of profit on account of unverified purchases

Facts

- The assessee made purchases of Rs. 95.26 lakhs from Mandi vendors.
- The Assessing Officer was made an addition of Rs. 95.26 lakhs by considering purchases bogus.
- The Commissioner (Appeals) partly sustained the addition by directing that the GP rate of 15 per cent be applied as against 9.27 per cent declared by the assessee.
- On appeal before the Tribunal:

Held

- The view canvassed in deleting the similar additions made for the assessment years 2002-03 to 2004-05 on the ground that no incriminating material was found at the time of search, cannot be applied to the facts for this year because the return was filed on 31-10-2005 and the time limit for issue of notice under section 143(2) was available up to 31-10-2006. As against that, a search was undertaken on 23-12-2005 which shows that the revenue had the time available with it for passing of the assessment order or for issuing notice under section 143(2). As such, the assessment for the assessment year 2005-06 falls in the category of non-completed or pending assessment, which gives the power to the Assessing Officer for making additions in the assessment under section 153A based not only on the incriminating material found during the course of search, but otherwise also. Adverting to the facts of the instant case, the assessee admittedly did not produce any books of account and the supporting vouchers/bills. The contention of the assessee that the books were available in the computer, which was available with the department, cannot be accepted because even if soft copy of such books was available, but there were no supporting bills/vouchers, which could have been verified by the Assessing Officer. The assessee did not furnish any evidence or details during the course of assessment proceedings. In such a situation, the argument of the assessee that since the books of account were not rejected, hence, no addition could have been made by estimating the profit rate, is jettisoned as without any substance. When the books and the relevant vouchers/bills were not produced before the Assessing Officer, it was, but, natural to make the assessment on the basis of some estimate. As against the Assessing Officer disallowing all the purchases, the Commissioner (Appeals) was justified in approving the application of GP rate of 15 per cent on the declared sales to cover the leakage of profit on the possibility of unverified purchases. The impugned order is, therefore, upheld on this issue and both the grounds are dismissed.