AO couldn't reject books of account just because there was fall in gross profit rate

Summary – The Chandigarh ITAT in a recent case of Maghan Paper Mills (P.) Ltd., (the Assessee) held that where in support of its business transactions carried out during relevant year, assessee produced books of account, stock registers, vouchers etc. and Assessing Officer failed to point out any defect in those documents, in such circumstances, mere fall in gross profit rate could not be a ground for rejection of assessee's books of account

Facts

- During relevant year, assessee filed its return declaring certain taxable income. In course of assessment, the Assessing Officer noted that gross profit rate of assessee was consistently declining. He further found certain discrepancies in electricity consumption.
- The Assessing Officer thus rejected assessee's books of account. He adopted gross profit rate of assessment year 2009-10 at 18.49 per cent. Accordingly, certain addition was made to assessee's income.
- The Commissioner (Appeals), however, deleted the addition made by Assessing Officer.
- On revenue's appeal:

Held

- In the peculiar facts and circumstances of the present case the department's appeal deserves to be dismissed. Adverting to the facts on record, it is noted that the assessee did not take up the plea for the first time that there were inconsistencies in the correctness of the departmental allegations of electricity consumption. The same was assailed not only before the Commissioner (Appeals) but the arguments have also been raised before the Assessing Officer also. The arguments that there were multiple reasons for variations, even for the variations in electricity consumption by the assessee was also not taken up for the first time before the Commissioner (Appeals).
- The record shows that in the reply extracted of the assessment order, the assessee has submitted that variation in consumption of power could be due to multiple reasons such as interruptions in regular supply of power, tripping in power supply, quality of raw material and finished product, efficiency of the machine operator and the workers, breakdown of the machinery *etc*. Similarly the assertion that the power consumption in the year under consideration has in fact gone down *vis-a-vis* the earlier years is also evident from the very same reply.
- The said consistent claim on record has not been upset by the Assessing Officer. The Commissioner (Appeals) in the peculiar facts and circumstances of the present case where books of account and stock registers, vouchers were produced and examined and he, therefore, goes on to hold that merely on the ground of variation in electricity consumption, the rejection of books of account was

not warranted. On considering the conclusion along with the consistent arguments on record, it is held that the Commissioner (Appeals) has correctly observed that GP rate cannot be static year after year and it is impacted by various economic factors and market conditions which admittedly are beyond the control of an individual taxpayer.

- Similarly, he has taken note of the fact that the records regularly maintained under the Excise Law cannot be ignored as these are relevant for tax purposes also and in fact are complimentary to the proceedings as these justify the production aspect with regard to the manufacturing quality, sizes, quantum of finished goods, raw material and other consumables on a day-to-day basis. In the face of the complete quantitative information in connection with purchases, production and sales details available to the Assessing Officer who has not pointed out any defect with evidence in the audited books of account and there is no such finding of fact that the assessee has inflated the cost of raw material or cost of manufacturing or suppressed its sale prices order, or that it has made purchases of raw material or sale of finished goods outside the books. Since the quantum of production and turnover has been accepted, the rejection of books of account in the peculiar facts and circumstances has been held to be inapplicable and there is no good reason available on record on the basis of which the said conclusion can be varied.
- Accordingly, there is no reason to interfere with the order passed by the Commissioner (Appeals).
- In the result the appeal of the revenue is dismissed.