

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH : KOLKATA

[Before Hon’ble Sri A.T.Varkey, JM & Shri M.Balaganesh, AM]

I.T.A No.322/Kol/2017

Assessment Year : 2012-13

Kishori Oil Mill
Kolkata

[PAN : AAHFK 1751 B]

(Appellant)

-vs.-

I.T.O., Ward-46(2)
Kolkata

(Respondent)

For the Appellant : Shri Ashish Rastogi, FCA

For the Respondent : Shri M.K.Biswas, JCIT

Date of Hearing : 22.06.2017.

Date of Pronouncement : 07.07.2017

ORDER

Per M.Balaganesh, AM

1. This appeal of the assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals) -14 , Kolkata [in short the Id CITA] in Appeal No. 05/CIT(A)-14/Ward-47(3)/2015-16. dated 30.11.2016 against the order passed by the Income Tax Officer, Ward-46(2), Kolkata [in short the Id AO] under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the ‘Act’) dated 13.03.2015 for the Asst Year 2012-13.

2. The first issue to be decided in this appeal is as to whether the Id CITA was justified in confirming the addition made in the sum of Rs 5,65,596/- being the difference in ledger balance between the assessee and the creditor M/s Lokhariya & Sons in the facts and circumstances of the case.

2.1. The brief facts of this issue is that the assessee is a partnership firm running an oil mill for crushing mustard seeds for making mustard oil. The Id AO observed that assessee raised a purchase order on M/s Lokhariya & Sons, Banda U.P. before the close

of the financial year 2011-12. The supplier prepared a sales invoice no. 37 on 29.3.2012 and dispatched the goods on the same date by road. The materials were dispatched by way bill no. 1920120331623 issued by Directorate of Commercial Taxes, West Bengal dated 1.4.2012 and all the details of purchases i.e the name of the party, transporter name, consignment number which is in the instant case is 156 were furnished. Though the dispatch has been made by M/s Lokhariya & Sons vide invoice dated 29.3.2012, the assessee received the goods only on 2.4.2012 and made entries of purchase in the financial year 2012-13. During the assessment proceedings for the Asst Year 2012-13, the Id AO as a part of verification of genuineness of transactions issued notice u/s 133(6) of the Act to the supplier and found that the supplier had shown sales of Rs 39,07,162/- to the assessee whereas the assessee had shown purchases of Rs 33,41,566/- from the said supplier. The Id AO added the difference of Rs 5,65,596/- and added it to the total income of the assessee. This action of the Id AO was also confirmed by the Id CITA. Aggrieved, the assessee is in appeal before us on the following grounds:-

“2. For that the Ld. C.I.T(A) erred in confirming the addition of Rs. 5,65,596/- being the difference in ledger balance between the appellant company and the creditor M/s Lokhariya & Sons without considering the facts and circumstances of the case.

3. For That the Ld. C.I.T(A) erred in not considering the facts stated in the remand report that the purchases had been recorded by the appellant company in F.Y 2012-13 on receipt of the material whereas the creditor had recorded the sales in the year 2011-12 on dispatch of the material.

4. For that the Ld. CIT (A) had erred in assuming that the accounting practice of the appellant firm is such that purchases are recorded on placing of the order and not on receipt of the materials.

5. For that the Ld. C.I.T(A) erred in confirming the addition of Rs. 5,65,596/- made by the Ld. Income Tax Officer on the premise that there is unreconciled discrepancy between the ledger of the appellant firm and the books of the creditor.”

2.2. The Id AR argued that the goods were received by the assessee only on 2.4.2012 and entry of purchase was made in financial year 2012-13. The Id AR also showed the

ledger of the said supplier for the financial year 2012-13 to prove that the purchases were booked in the next financial year based on the date on which goods were received by the assessee. It was also explained that the difference in party balance is only due to goods in transit amounting to a single invoice for Rs 5,65,596/- which was accounted as sales by the said supplier on 29.3.2012 but was accounted correspondingly as purchase by the assessee in financial year 2012-13 based on the date of receipt of goods on 2.4.2012. It was also argued that in any case, the said purchases even if it had to be accounted in the year under appeal, the same would remain in closing stock as on 31.3.2012 and hence it would be revenue neutral having no impact on the net profit of the assessee and the taxable income. He further argued that this fact has been duly accepted by the Id AO in the remand report dated 29.9.2016. Despite this fact, the Id CITA confirmed the addition made by the Id AO. In response to this, the Id DR fairly conceded with the argument of the Id AR that no addition needs to be made in the facts of the instant case.

2.3. We have heard the rival submissions. We are inclined to accept the arguments of the Id AR as detailed in para 2.2. above and accordingly direct the Id AO to delete the addition made in the sum of Rs 5,65,596/- . Accordingly, the Grounds 2 to 5 raised by the assessee are allowed.

3. The last issue to be decided in this appeal is as to whether the Id CITA was justified in upholding the disallowance of freight payment in the sum of Rs 97,912/- in the facts and circumstances of the case.

3.1. The brief facts of this issue is that M/s Daftari Commercial, supplier of mustard seeds has shown the sales of Rs 25,11,142/- during the financial year 2011-12 whereas the total purchases shown by the assessee was Rs 26,09,054/- leading to a difference of Rs 97,912/- which was added by the Id AO as unreconciled purchases. The assessee

submitted before the Id AO that it was the practice that lorry freight was settled by the assessee and M/s Daftari Commercial had paid the freight charges as advance and ultimately debited the assessee firm and as it was the obligation of the assessee firm to bear the freight and therefore the same was debited to purchase account by the assessee firm. It was explained that M/s Daftari Commercial need not bear the freight and therefore the same was not required to be shown as sales in their books. The assessee firm had shown the purchases including freight under the head purchases irrespective of the fact whether the same was incurred by the assessee or the vendor. The assessee submitted that the seller M/s Daftari Commercial debits the account of the assessee with the sale figure as well as part of the advance towards freight. However, the assessee credited the account of the seller with total amount of freight incurred in that transaction and paid to the seller on account of amount incurred by them. It was pleaded that the Id AO made the addition of Rs 97,912/- without appreciating the facts of the case. It was also explained that the total freight incurred for the materials is Rs 1,37,912/- and the vendor had incurred Rs 40,000/- which clearly implies that the balance Rs 97,912/- was directly paid to the transporters. The amount of Rs 26,09,052/- includes the figure of Rs 1,37,912/- and the figure of Rs 25,11,142/- includes just Rs 40,000/- which was directly paid to the transporters by M/s Daftari Commercial. Accordingly it was argued that there is no case for making any addition in this regard. However, the Id CITA did not appreciate the contentions of the assessee and upheld the disallowance made by the Id AO inspite of the fact that the Id AO had accepted the contentions of the assessee in the remand report dated 29.9.2016. Aggrieved, the assessee is in appeal before us on the following grounds :-

“6. That the Ld. CIT (A) had erred in confirming disallowance made by the LD Income Tax Officer of Rs. 97912/- without considering the facts and circumstances of the case.

7. That the Ld. CIT (A) had erred in not considering the fact that the freight paid by the creditor M/s Daftari Commercial was on behalf of the appellant firm and the same was integral part of the purchases shown by the appellant firm.”

3.2. We have heard the rival submissions. We find that the Id DR fairly conceded with the argument of the Id AR that no addition needs to be made in the facts of the instant case. We are inclined to accept the arguments of the Id AR and the accounting treatment given by the assessee as detailed in para 3.1. above and accordingly direct the Id AO to delete the addition made in the sum of Rs 97,912/- . Accordingly, the Grounds 6 & 7 raised by the assessee are allowed.

4. In the result, the appeal of the assessee is allowed.

Order pronounced in the Court on 07.07.2017

Sd/-
[A.T.Varkey]
Judicial Member

Sd/-
[M.Balaganesh]
Accountant Member

Dated : 07.07.2017

[RG PS]

Copy of the order forwarded to:

1. Kishori Oil Mill, 3, Biki Hakhola High School Road, Jaynagar, Ranihat, Howrah-711322.
2. I.T.O., Ward-46(2), Kolkata.
- 3..C.I.T.(A)-14, Kolkata 4. C.I.T.-16, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Senior Private Secretary
Head of Office/D.D.O., ITAT, Kolkata Benches

