

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK
'SMC' BENCH, CUTTACK**

BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER

ITA No.165/CTK/2017
Assessment Year : 2009-2010

Rabindra Kumar Biswal, MIG-53, Udaya Vihar, Patrapada, Bhubaneswar.	Vs.	ITO, Ward 2(2), Bhubaneswar
PAN/GIR No. AMFPB 4074 P		
(Appellant)	..	(Respondent)

Assessee by : Shri J.M.Patnaik, AR
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 16 /08/ 2017
Date of Pronouncement : 18 /08/ 2017

ORDER

This is an appeal filed by the assessee against the order of CIT(A)-
1, Bhubaneswar dated 12.6.2015 for the assessment year 2009-2010.

2. The sole issue involved in this appeal is that the CIT(A) erred in confirming the addition of 4,86,328/- as suppression of assets.

3. I have heard the rival submissions, perused the orders of lower authorities and materials available on record. The undisputed facts of the case are that the Assessing officer found that the Executive Engineer, Cuttack PH Division paid an amount of Rs.5,22,830/- on 31.3.2009 to the assessee, which was credited to the bank account after 31.3.2009. According to him, the Executive Engineer was not shown as the debtor for

the said amount but shown as a debtor only to the extent of Rs.36,502/-. Accordingly, sundry debtor for Rs.4,86,328/- (Rs.5,22,830 – Rs.36,502) was not reflected in the balance sheet, which was considered by the Assessing Officer as suppression of assets in the balance sheet and added to the income of the assessee.

4. On appeal before the CIT(A), the assessee submitted that the assessee had supplied materials alongwith installing the same in the department of Executive Engineer, PH Division, Bhubaneswar for an amount of Rs.5,22,830/-, which was already reflected in sales account as part of the business transactions in the audited account. The payment has been materialised on 31.3.2009 at Rs.4,63,927/- after due deduction of security deposit, VAT, income tax, SC & E.C. amounting to Rs.58,903/- and balance amount of Rs.4,63,927/- was credited to the assessee's bank account by way of draft on 8.5.2009 for Rs.4,62,772/- after due deduction of commission of Rs.1155/- out of total amount of Rs.4,63,927/-. It was further submitted that the aforesaid transaction was already included in the business turnover of the assessee as books of account of the assessee has been maintained on mercantile basis and necessary profit element of the said transaction was already included in the gross profit as well as net profit and the books of account of the assessee has not been rejected by the Assessing Officer. It was, therefore, submitted that the addition should be deleted.

5. The CIT(A) after considering the submission of the assessee held that he found no merit in the assessee's submission. The sundry debtor has not been disclosed in the balance sheet and hence, to that extent the asset has been suppressed.

6. Before me, Id A.R. of the assessee has filed in the paper book at page 43 ledger account of sales for the period 1.4.2008 to 31.3.2009. He pointed out from this account that on 31.3.2009, vide journal entry and sales account was credited with an amount of Rs.5,22,830/-. Thereafter, he referred page 44 of PB, wherein, ledger account of the Executive Engineer of PH Division is placed for the period 1.4.2008 to 31.3.2009. He submitted that a sum of Rs.5,10,982/- was debited on 31.3.2009 in the name of Executive Engineer, PH Division and Rs.11,898/- was debited to income tax deducted at source. He submitted that net debit of Rs.36,502- was shown in the account at the year end on 31.3.2009 after taking into account the opening brought forward debit balance on 1.4.2008 of Rs.54,743/- and credits for payment received on 6.5.2008 of Rs.1,99,500/- and payment received of Rs.3,29,723/- on 1.7.2008. It was this his submission that there was no suppression of assets by the assessee as alleged by the Assessing Officer and confirmed by the CIT(A) and, therefore, the addition made should be deleted.

7. Ld D.R. relied on orders of lower authorities.

8. I find from the evidences filed that it is abundantly clearly that the assessee has shown income of Rs.5,22,830/- by crediting the sales account on 31.3.2009 being the amount of materials supplied alongwith installing to the Executive Engineer, PH Division, Bhubaneswar. The corresponding net debit was made to the account of Sr. Executive Engineer, PH Division for an amount of Rs.5,10,982/- and Rs.11,848/- was income tax deducted at source account. The net balance in the ledger account of Executive Engineer was drawn as on 31.3.2009 at Rs.36,502/-, which was reflected in the balance sheet which was arrived at taking into consideration the opening debit balance on 1.4.2008 of Rs.54,743/- and credits for payment received of an amount of Rs.1,99,500/- on 6.5.2008 and Rs.3,29,723/- on 1.7.2009 through State Bank of Travancore. Thus, I am of the considered view that the Assessing Officer was not justified in holding that there was suppression of assets to the tune of Rs.4,86,328/- and Id CIT(A) was not justified in confirming the same. Hence, I set aside the order of the CIT(A) and delete the addition of Rs.4,86,328/- and allow the ground of appeal of the assessee.

9. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 18 /08/2017.

Sd/-

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 18 /08/2017

B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant : Rabindra Kumar Biswal,
MIG-53, Udaya Vihar, Patrapada,
Bhubaneswar
2. The Respondent. ITO, Ward 2(2),
Bhubaneswar
3. The CIT(A) -1, Bhubaneswar
4. Pr.CIT, -1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack