



**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.181/Rpr/2013

Assessment Year : 2007-08

Smt. Sushila Devi Agrawal, W/O Shri Brij Mohan Agrawal, Danipara, Raigarh	Vs.	The Income Tax Officer-1, Raigarh.
PAN/GIR No.BBNPA 6570 Q		
(Appellant)	..	(Respondent)

Assessee by : Shri R.B.Doshi, AR

Revenue by : Shri Sanjay Kumar, DR

Date of Hearing : 11/01/ 2018

Date of Pronouncement : 15/01/ 2018

ORDER

Per Pavan Kumar Gadale, JM

This is an appeal filed by the assessee against the order of the CIT(A)-Bilaspur, dated 2.8.2013 for the assessment year 2007-08.

2. Ground No.2 of appeal in respect of initiation of reassessment proceedings u/s.147 of the Act was not pressed by Id A.R. of the assessee, therefore, same is dismissed as not pressed.

3. The sole issue involved for adjudication in this appeal is that the CIT(A) erred in confirming the action of the Assessing Officer in assessing the total income at Rs.51,55,930/- as against income shown at Rs.60,000/-.



4. The facts are that, on an AIR information, the Assessing Officer found that cash of Rs.66,33,386/- was deposited in assessee's saving bank account with Union Bank of India, Raigarh during the year under consideration. Out of above, a sum of Rs.51,55,928/- was received as arbitration award from Executive Engineer, PHE Department against supply of materials of Rs.8,78,115/- in the financial year 1993-94 relevant to assessment year 1994-95 and financial year 1994-95 relevant to assessment year 1995-96. In the bills raised and accepted by the purchaser department, it was stipulated that payments of bills were to be made within 15 days of supply of goods and bills raised and in case of non-payment, interest @ 24% per annum had to be charged. Since the payments were not received, a recovery suit was filed before the Hon'ble District Judge, Raigarh including recovery of interest thereon. The total claim as per suit was Rs.15,43,282/- i.e. Rs.8,78,115/- as principal amount, Rs.6,60,166/- as interest on principal amount and Rs.5000/- as notice expenses. The civil suit was decided in favour of the assessee on 28.2.2005 and decree of Rs.15,43,282/- was awarded. Further, interest for the period from the date of filing of suit to the date of payment and expenses of Rs.36,12,646/- was also granted. Against the above decree, the PHE Department filed appeal before the Hon'ble High Court on 18.5.2005 and prayed for stay of execution of judgment. The Hon'ble High Court granted stay on 8.8.2005. The above



stay was vacated by Hon'ble High Court on 19.12.2005 with the direction to the Government to deposit the amount within a period of four weeks alongwith interest component @ 6% per annum upon the principal amount from the date of filing of the suit i.e. 28.10.1996. Accordingly, cash of Rs.51,55,928/-, i.e. Rs.15,43,282/-, on 23.3.2006 and Rs.36,12,646/- on 10.7.2006 was deposited by the Executive Engineer, PHE Department in the District Civil Court. After filing solvent security guarantee before the District Civil Court, the assessee withdrew Rs.15,43,282/- and Rs.26,12,646/- and deposited the same in her bank account. The Assessing Officer observed that the payments received by the assessee from the Executive Engineer, PHE Department is in the nature of revenue and crystalised with the order of the Court in the year under and the Assessing Officer has brought to tax the entire amount of Rs.51,55,930/-.

5. On appeal, the CIT(A) confirmed the action of the Assessing Officer.

6. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. The undisputed fact of the case are that the assessee has received Rs.51,55,928/- as arbitration award from Executive Engineer, PHE Department. The assessee in the income tax return has offered income only in the year corresponding to the receipt whereas the matter has travelled beyond the assessment year 2007-08 and



was crystallised by the order of the Hon'ble High Court dated 12.12.2014, wherein, interest component of 6% has been settled. We are of the considered opinion that the assessee is required to offer the income in the assessment year 2015-16 as the income has been crystallised after the final disposal of the case by the Hon'ble High Court. Therefore, we consider it fit and proper to remit the matter back to the file of the Assessing Officer to compute the income of the assessee in the financial year 2015-16 in accordance with the decision of Hon'ble High Court and to tax the income of the assessee accordingly. We also direct the Assessing Officer to allow proper opportunity of hearing to the assessee.

7. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 15/01/2018.

Sd/-

(N.S Saini)
ACCOUNTANT MEMBER

sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

Raipur; Dated 15 /01/2018
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1.	The Appellant : Smt. Sushila Devi Agrawal, W/O Shri Brij Mohan Agrawal, Danipara, Raigarh
2.	The Respondent. The Income Tax Officer-1, Raigarh
3.	The CIT(A)- Bilaspur
4.	Pr.CIT- Bilaspur
5.	DR, ITAT, Raipur
6.	Guard file. //True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Raipur