

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.25/Ind/2017
Assessment Year: 2007-08**

Income Tax Officer – 3(1), Bhopal	Vs.	M/s. Narmada Vehicles Pvt.Ltd, 6/1, Industrial Area, Govindpura, Bhopal
(Revenue)		(Respondent)
PAN No.AAACN4996R		

Revenue by	Shri K.G. Goyal, Sr.DR
Respondent by	Shri S.S. Deshpande,CA (AR)
Date of Hearing:	10.01.2018
Date of Pronouncement:	16.01.2018

ORDER

PER MANISH BORAD, AM.

This appeal filed by the Revenue is directed against the order of Id. Commissioner of Income-tax (Appeals), Ujjain (Camp at Bhopal) [in short referred to as the CIT (A)] dated 25.10.2016 arising out of the order u/s 143(3) of the Income Tax Act dated 20.12.2011 framed by

the Ld. Asstt. Commissioner of Income-tax-2(1), Bhopal pertaining to Assessment Year 2007-08.

2. Briefly stated of facts as culled out from the records are that assessee is a Private Limited Company and is dealer of Hundai cars. Return of income was filed on 31.10.2007 declaring income of Rs.1,87,767/-. The case selected for scrutiny. Notices u/s 143(2) and 142(1) of the Act were duly served upon the assessee along with questionnaire. In the assessment proceedings the Ld.A.O observed that the assessee has shown advances from customers at Rs.1,29,74,290/-. Various details about the identity including name, address and other relevant details were called for but the assessee failed to satisfy the Ld.A.O and he accordingly added Rs.1,29,74,290/- to the income of the assessee. Disallowances were also made at Rs.3,00,000/- for deferred revenue expense, disallowance of miscellaneous expense and Director accommodation expense of Rs.75,000/- as well as prior period expenses at Rs.1,09,007/-. Income assessed at Rs.1,36,46,060/-. Against these additions the assessee preferred an appeal before Ld.CIT(A) and partly succeeded.

3. Now the revenue is in appeal pressing following grounds.

4. The Learned Departmental representative vehemently argued on both the above grounds supporting the order of Learned Assessing Officer. The Ld.Counsel relied on the findings of the Ld. CIT(A).

5. We have heard the rival arguments and perused the record placed before us.

Ground No.1: *Whether on the facts and in the circumstances of the case, the Ld.CIT(A) was justified in deleting addition on account of unexplained credit of Rs.1,29,74,290/-*

6. The Ld.A.O made this addition for want of details towards advance from customers which stood at Rs.1,29,74,290/-. All necessary details were filed by the assessee before the first appellate authority who admitted the additional evidences filed under rule 46A(1)(b) of the I.T rules and called for the remand report. The Ld. CIT(A) after appreciating the details of each and every customer having its balance in the list of advances from customers deleted the impugned addition observing as follows;

“5.2 Ground No.2: Through this ground of appeal the appellant has challenged the addition of Rs.1,29,74,290/- on account of unexplained credit. The AO treated the advances from various customers against sale of cars as unexplained cash credit. This amount represents the money deposited by the customers for purchase of car. Some customer’s pay the sale price of a car in installments and such amount is also kept in the account styled ‘advance from customers’ till the full amount is realized and the sale is complete. Sometimes customer deposits money for a particular purpose and then does not avail of the service, in these cases some amount becomes payable to the customer and is refunded later which may take some time. The list also includes customers who have not paid the balance amount. The appellant is maintaining books of account along with supporting vouchers in support of the said credits/debits. The books of account were produced and the related supporting documents of the customers were produced during the course of assessment proceedings. The customer ledger accounts were put up for verification. The AO examined the same and did not point out any discrepancy or observation which would go to prove the record as incomplete/ incorrect or to the dissatisfaction of the AO. The information desired by the AO in the particularly specified format is not maintained by the appellant. By merely the information has not been maintained by the appellant in the form

specified cannot be considered as no proper record has been maintained. The appellant produced complete details such as name, address, mode of payment, phone nos, sale bill nos, vehicle no. etc for the said amount of Rs.1,29,74,290/-, party-wise. This statement is produced. It can be seen from the statement that the credit standing in the customer's account has been set off by a sale bill or by a return of money or by writing off in the books of account of the appellant as unclaimed/unpaid by the customer. However, the writing back of the unclaimed amount does not absolve the appellant from the liability to pay back the said amount when claimed by the customer. The appellant during the course of assessment proceedings produced before the AO all the customers document files that contained all the details and documents of such customer since the beginning till the conclusion of sale such as identity, address, RTO papers, insurance papers, bank finance details etc. Therefore, the money received is in fact against the sale of cars and complete details along with documentary evidences had been filed before the AO. Therefore, the AO is not justified in treating the advance receipt as unexplained credit. Therefore, the addition made by the AO amounting to Rs.1,29,74,290/- is deleted. The appeal on this ground is allowed.

7. From the perusal of the findings of Ld. CIT(A) as well as in the given facts and circumstances of the case as well as in going through the details of advances from customers placed at page 10 to 17 of the paper book, we find that complete details of the advances received from customers against sale of cars and spare parts are shown for the period ending 31.03.2007 and amount received in financial year 2007-08 and further adjustment of total amount received against the invoices raised for the cars sold to various customers as well as treatment of remaining amount which inter alia includes amounts written off as to miscellaneous income/bad debts in subsequent years. Further we also observe that the books of accounts are audited, amount received are through account payee cheques and no major error has been pointed out by the Tax Auditor and Assessing Officer in the books of

accounts. We therefore find no reason to interfere in the findings of Ld. CIT(A) deleting the impugned addition towards unexplained credit in the form of given advances from customers of Rs.1,29,74,290/-. In the result Ground No.1 of the revenue is dismissed.

8. Ground No.2: The Ld. A.O disallowed expenses to the tune of Rs.75,000/- which includes Rs.25,000/- on account of miscellaneous expenses and Rs.50,000/- for expenses for Director's accommodation.

9. We observe that the disallowance of Rs.25,000/- was on account of non maintenance of vouchers and there is no specific reply demonstrating the genuineness of these expenses. However as regard to Director's accommodation expense of Rs.50,000/- we find that this amount has been allowed as remuneration and perquisites and is as part of total amount of Rs.2,46,840/- paid by the assessee company for Director's accommodation. In these facts we find no infirmity in the findings of Ld. CIT(A) deleting disallowance of Rs.50,000/- and sustaining the disallowance of Rs.25,000/-. We accordingly dismiss Ground No.2 of the revenue.

10. In the result the appeal of the revenue is dismissed.

The order pronounced in the open Court on 16.01.2018.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /Dated : 16th January, 2018

Copy to: The Appellant/Respondent/CIT concerned/CIT(A)
concerned/ DR, ITAT, Indore/Guard file.

By order

Private Secretary/DDO, Indore

- 1.** Date of dictation : 11/01/2018
- 2.** Date on which the typed draft is placed before the Dictating Member : 12/01/2018
- 3.** Date on which approved draft comes to the Sr.P.S./P.S: 12.1.2018
- 4.** Date on which the fair order is placed before the dictating Member for pronouncement: 12.1.2018
- 5.** Date on which the fair order comes back to the Sr.P.S./P.S.:15.1.18
- 6.** Date on which the file goes to the Bench Clerk: 17.1.18
- 7.** Date on which the file goes to the Head Clerk:
- 8.** The date on which the file goes to the Assisstant Registrar for signature of the order.
- 9.** Date of Despatch of the Order: