

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC-C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No.1648/Bang/2017
Assessment Year : 2012-13

M/s. Magnasoft Consulting (P) Ltd., Global Village, IT Sector SEZ, Pattanagere Village, Mylasandra, Bangalore. PAN: AACCM 0845J	Vs.	The Income Tax Officer, Ward – 4(1)(3), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri C. Ramesh, CA
Respondent by	:	Dr. G. Manojkumar, Addl. CIT (DR)

Date of hearing	:	09.01.2018
Date of Pronouncement	:	11.01.2018

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the assessee which is directed against the order of Id. CIT(A)-4, Bangalore dated 09.05.2017 for Assessment Year 2012-13.

2. The grounds raised by the assessee are as under.

“1. The order of the learned Commissioner of Income Tax (Appeals) is opposed to the facts of the case and law applicable to it.

2. The learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs.19,15,881/- by the Assessing Officer allegedly for the reason that, there was a difference in export sales as per invoices when compared to the export sales reported in the profit & loss account ignoring the fact that. all the export sales reported in the profit & loss account was net off debits in the sales account and all sales accounted for, reconciliation furnished.

3. The learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs.19,15,881/- with a finding that, specific details were not submitted ignoring the position of law that, if any such details were required the same could have been called for and a

decision could have been taken after verification.

4. The learned Commissioner of Income Tax (Appeals) erred in not appreciating the fact that, the issue relates to export sales and the recovery is governed by the regulations of Reserve Bank of India and under the circumstances, there could not have been any difference between the export sales as per invoices and the export sales reported in profit & loss account which is after the net off the debits in the sales account.

5. The learned Commissioner of Income Tax (Appeals) erred in not appreciating the fact that, this was not a case of suppression of export turnover but only a case wherein reconciliation was required and invoices were raised for all sales whereas what was reported in the profit & loss account is after netting off the debits in sales account and therefore it cannot be held that, the same is not reflected in the profit & loss account

6. The appellant craves permission to add, delete or alter any of the grounds at the time of hearing.”

3. It was submitted by Id. AR of assessee that the addition is made by the AO in export turnover on this basis that there is difference between the amount of export turnover as per the FIRC statement of Rs. 18,81,16,033/- and as per P&L account of Rs. 18,62,00,152/- having difference of Rs. 19,15,881/-. He pointed out that it was explained before the AO as noted by him on page no. 2 of the assessment order that the difference is on account of credit notes raised during the present year pertaining to invoices raised in the earlier period. Thereafter he drawn my attention to Para no. 5.3 of the order of CIT(A) and pointed out that the same submission was made before the CIT(A) also but it was rejected by CIT(A) on this basis that the assessee's claim is not supported by specific party-wise / item-wise list. Thereafter he submitted that on page no. 78 of the paper book is the Reconciliation statement in this regard and as per the same, the list is available regarding various credit notes issued by assessee in the present year along with name of the party and original invoice number, date etc. He submitted that therefore, this is not correct on the part of the CIT(A) to say that party-wise / item-wise list is not made available before him. He submitted that the matter may be restored back to the file of CIT(A) for fresh decision after examining the Reconciliation statement submitted by the

assessee which is available on page no. 78 of the paper book. The Id. DR of revenue supported the order of CIT(A).

4. I have considered the rival submissions. I find that in para no. 5.3 of order of CIT(A), it is stated by him that the assessee's submissions are being rejected on account of various reasons including this reason also that party-wise / item-wise list in respect of various credit notes is not made available before him. On page no. 78 of the paper book, the full detail of credit notes issued in the present year is available along with the name of the party, original invoice number, date etc. Hence, it appears that the CIT (A) has not considered all the material made available before him by the assessee and therefore, I set aside the order of CIT(A) on this issue and restore this matter back to the file of CIT(A) for fresh decision by way of a speaking and reasoned order after providing adequate opportunity of being heard to both sides.
5. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 11th January, 2018.

/MS/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.