

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

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

ITA No.98/Ran/2017
Assessment Year: 2013-2014

Shri Vishnu Kumar Jalan, M/s. Jalan Food Product, Ranglal Jalan Road, Upper Bazar, Ranchi.	Vs.	ACIT, Circle-3, Ranchi
PAN/GIR No. AAWPJ 3994 J		
(Appellant)	..	(Respondent)

Assessee by: Shri S.K.Poddar/Devesh Poddar, Adv
Revenue by : Shri P.K.Mondal, JCIT

Date of Hearing : 22/05/ 2018
Date of Pronouncement : 23 /05/ 2018

ORDER

Per N.S.Saini. AM

This is an appeal filed by the assessee against the order of CIT(A), Ranchi, dated 1.3.2017, for the assessment year 2013-14.

2. Ground Nos.1 & 2 read as under:

"1. For that the CIT(A) was not justified in confirming the disallowance made by the AO out of the freight & cartage expenses on the ground

that provisions of section 40(a)(ia) were attracted since the appellant was liable for making deduction u/s.194C which was not done.

2. For that as per the amended provisions of section 194(6) appellant was not liable to make deduction of TDS on the expenses incurred for transportation if the transporter provides the PAN No. The PAN number was provided and was mentioned in the submissions filed before the CIT(A). As such no disallowance is called for and should be deleted."

3. The brief facts of the case are that the Assessing officer observed that the assessee has made payments of freight charges without deducting tax u/.194C of the Act as under:

Sl. No.	Payment made to	Date	Total amount paid(Rs.)
1.	Freight incurred for purchase of chana from Vinayak Trading Co. Satna, UJP 63 H 9073	6.10.12	30,640/-
2.	Freight incurred for purchase of chana from Vinayak Trading Co. Satna, UJP 63 H 9390	10.10.12	30,350/-
3.	Freight incurred for purchase of chana from Sunil Kr. Sushil Kr. Satna	29.10.12	32,240/-
4.	Freight incurred for purchase of chana from Vinayak Trading Co. Satna, UJP 63 D 9625	1.11.12	33,240/-
5.	Freight incurred for purchase of chana from Sunil Kr Sushil Kr, Satna	5.11.12	33,850/-
6.	Freight paid to Gopal Roadways	26.11.12	31,730/-
7.	Freight paid to Gopal Roadways	19.12.12	34,550/-
8.	Freight paid to Gopal Roadways	24.12.12	32,530/-
9.	Freight paid to Gopal Roadways	24.12.12	32,530/-
10.	Freight paid to Gopal Roadways	17.1.13	32,580/-

11.	Freight paid to Gopal Roadways	19.1.13	32,960/-
12.	Freight paid to Gopal Roadways	22.1.13	30,380/-
13.	Freight to North Bihar Roadways	12.2.13	32,000/-
14.	Freight to North Bihar Roadways	2.3.13	30,960/-
15.	Freight to North Bihar Roadways	19.3.13	34,240/-
		Total:	4,84,980/-

4. The Assessing Officer observed that said amount could be allowed as deduction in absence of TDS only if the assessee had furnished Form 15J to the department within time. Section 40(a)(ia) of the Act calls for disallowance of any amount paid without deducting TDS which was liable for such deduction. The assessee was liable to deduct TDS on transport payments made if Form 15J was not submitted. As the assessee failed to do so, amount of Rs.4,84,980/- was disallowed u/s.40(a)(ia) r.w. Section 194C of the Act and added back to the total income of the assessee.

5. On appeal, the CIT(A) also confirmed the action of the Assessing Officer on the ground that sub-sections (6) & (7) of Section 194C provides that non-deduction of tax at source is permissible only under the condition that the person responsible for paying furnishes to the prescribed income tax authority in such information as may be prescribed. The provisions do not envisage a situation where the payee furnishes PAN to the payer in complete

fulfilment of its obligation under the Act and no details are filed before the Income tax Authorities. This provision of the Act is to ensure that there is a check on the payments made without deducting tax at source and the same is subject to verification by the income tax authorities. In the present case, admittedly, no details were filed. The appellant was also not able to produce PAN details filed by the transporters, as claimed in its submissions.

6. Before us, Id A.R. of the assessee submitted that the observations of the CIT(A) in his order that no PAN details were filed is wrong as the assessee has filed all PAN numbers of the transporters to whom payments were made by the assessee. Hence, he prayed that in the interest of justice, one more opportunity should be granted to the assessee to produce the PAN of the transporters before the CIT(A) in terms of section 194C of the Act.

7. Ld D.R. had no objection to the above submission of Id A.R. of the assessee.

8. In the given facts and circumstances of the case, we set aside the orders of lower authorities and remand the matter back to the file of the CIT(A) for adjudicating the issue afresh as per the discussions made hereinabove after allowing reasonable opportunity of hearing to the assessee.

9. Ground Nos.3 to 5 of the appeal are as under:



"3. For that the entire transportation expenses stands paid as on 31.3.13. As such following the decision of CIT vs. Vector Shipping, 357 ITR 642 no disallowance is called for.

4. For that interest u/s.234A and 234B can only be charged on the returned income and not on the assessed income following the decision of Hon'ble Jharkhand High Court.

5. For that other grounds in detail will be argued at the time of hearing.

10. Ld A.R. of the assessee did not press these grounds and hence same are dismissed as not pressed.

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

Order pronounced in the open court on 23 /05/2018

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

sd/-

(N.S Saini)
ACCOUNTANT MEMBER

Ranchi; Dated 23 /05 /2018
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Shri Vishnu Kumar Jalan,
M/s. Jalan Food Product, Ranglal Jalan
Road, Upper Bazar, Ranchi.
2. The respondent: ACIT, Circle-3, Ranchi
3. The CIT(A), Ranchi
4. Pr. CIT, Ranchi
5. DR, ITAT, Ranchi
6. Guard file.
//True Copy//

BY ORDER,

SR.PS, ITAT,
CAMP AT RANCHI