



IN THE INCOME TAX APPELLATE TRIBUNAL "C", BENCH MUMBAI

BEFORE SHRI R.C.SHARMA, AM

&

SHRI SANDEEP GOSAIN, JM

ITA No.275/Mum/2017

(Assessment Year :2011-12)

M/s. Classy Containers 62/63, Ratan Jyot Industrial Estate, IRLA Gaothon Lane Vile Parle (W) Mumbai	Vs.	Asst. CIT – 25(2) Mumbai
PAN/GIR No.AABFC2548Q		
(Appellant)	..	(Respondent)

Assessee by	Shri Naveen Kumar Mishra
Revenue by	Shri Abi Rama Kartikeyan
Date of Hearing	04/10/2018
Date of Pronouncement	10/10/2018

आदेश / ORDER

PER R.C.SHARMA (A.M):

This is an appeal filed by the assessee against the order of CIT(A)-37, Mumbai dated 20/10/2016 for A.Y.2011-12 in the matter of order passed u/s.143(3) of the IT Act.

2. First grievance of assessee relates to addition of Rs.7,88,545/- on account of discrepancy in creditor's balance.
3. Rival contentions have been heard and record perused.
4. The brief facts of the case are that the assessee has filed the return for A.Y. 2011-12 declaring total income at Rs.39,69,191/-. The return was

processed u/s 143(1) of the IT. Act. Thereafter, the case was selected for scrutiny by issue of notice u/s. 143(2) of the Income Tax Act. In response, the assessee attended the assessment proceedings and furnished the details. The assessee is a partnership firm engaged in the business of manufacturing of plastic packaging material and income from other sources. During the course of assessment proceedings, it is seen by A.O. that the assessee has shown sundry creditors at Rs.2,23,86,232/. The A.O. has issued notice u/s.133(6) of the I.T. Act, 1961 for verification of the said claim. On perusal of the replies from the assessee, it was observed by the A.O. that sundry creditor in the case M/s. Puja Roadlines is reflected at Rs.5,41,200/- whereas the amount declared by the assessee in his return of income was Rs.13,27,745/-. Thus, there was discrepancy in respect of sundry creditor shown by the assessee. Hence, the difference of Rs.7,88,545/- on account of sundry creditor was disallowed by the A.O. and added back to the total income of the assessee. By the impugned order CIT(A) confirmed the addition. Assessee is in further appeal before us.

5. We have heard rival contentions and gone through the orders of the authorities below. As per contention of learned AR, M/s. Pooja Road Lines had charged excess amount against agreed between assessee and the said Pooja Road Lines. When this fact was brought to notice of said M/s. Pooja Road Lines they shown displeasure and refused to either give credit or settle the matter. The matter kept on prolonging. Therefore as

on 31/3/11 the assessee shown a sum of Rs.13,27,745/- which is payable as per Bills to the said M/s. Pooja Road Lines. Since the assessee was given the copy of financial statements to bankers and to the prospective customers assessee had shown the said amount of Rs.13,27,745/- as payable. Ultimately the matter got settled in the mid month of June, whereby the assessee arrived at a settlement and the said M/s. Pooja Roadlines agreed to give credit by reducing the amount by Rs.7,86,545/- from the amount receivable. It was further contended by learned AR that because of the aforesaid dispute assessee not only stopped making payment but also availing services, from said M/s. Pooja Road Lines. Therefore after settlement the assessee debited the sum of Rs.7,86,545/- to M/s. Pooja Road lines by passing necessary journal entry on 15/06/2011. Because of the said reason there remained difference between the amount payable. Since assessee had given the copy of financial statements to bankers it was not correct to change the figure on 15/6/2011 i.e. in the FY 2011-12 relevant to AY 2012-13. Since assessee had given the effect of said amount in next assessment year taxation of the same in the impugned assessment year will amount to double taxation of the same income twice, which is against the principle of natural justice and law. In the interest of natural justice and to give one more opportunity to the assessee, we restore the matter back to the file of the AO for verification and for deciding the issue afresh as per law.

6. Next grievance of assessee relates to adhoc disallowance of 15% of the expenditure incurred on telephone, conveyance and travelling etc., Keeping in view the nature of assessee's business vis-à-vis expenditure incurred on these heads, we direct the AO to restrict the disallowance to the extent of 10%. We direct accordingly.

7. In the result, appeal of assessee is allowed in part.

Order pronounced in the open court on this 10/10/2018

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 10/10/2018

Karuna Sr.PS

Copy of the Order forwarded to :

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

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)
ITAT, Mumbai