

आयकर अपीलीय अधिकरण , ' डी' न्यायपीठ,चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, CHENNAI**

श्री एन.आर.एस .गणेशन, न्यायिक सदस्य एवं
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 2804/Chny/2017
निर्धारण वर्ष/Assessment Year : 2014-15

K2 Cranes & Components P. Ltd.,
No. 14A, Telugu Brahmin Street,
Velacherry, Chennai – 600 042.

The Income Tax Officer,
Vs. Corporate Ward 4(4),
Nungambakkam,
Chennai – 600 034.

[PAN: AADCK 3625M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Assessee by : Shri. T. T. Durairaj Kandiar, FCA
Revenue by : Shri. M. Mathivanan, JCIT

सुनवाईकीतारीख/Date of Hearing : 06.12.2018

घोषणाकीतारीख/Date of Pronouncement : 19.12.2018

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the consolidated order of the Commissioner of Income Tax (Appeals)-8, Chennai in ITA No. 126 & 279/16-17 dated 15.09.2017 for assessment year 2014-15.

2. While making the assessment for assessment year 2014-15, the Assessing Officer disallowed crane hire charges and freight charges u/s. 40(a)(ia) which did not suffer TDS. Aggrieved, the assessee filed an appeal before the CIT(A). The CIT(A) dismissed the appeal. Aggrieved, the assessee filed this appeal.

3. The Ld. AR inviting our attention to the paper book submitted that the Id. CIT(A) grossly erred in confirming the disallowance on the crane hire charges paid to Om Sai Ram Cranes, PAN: AAZPE 3424 D, at Rs. 4,12,450/- on which the assessee had duly deducted TDS. With regard to disallowances of Rs. 1,58,300/- in the name of Shri Jagan Muthu Kumar and Rs. 41,000/- in the name of Smt. Vijayalakshmi, PAN: BODPD 7289 E, they have admitted these payments in their respective returns and paid taxes thereon within the stipulated time. Hence, as per second proviso to section 40(a)(ia) w.e.f. 01.04.2013, these payments would not attract the provisions of section 40(a)(ia).

4. With regard to the disallowances on freight charges at Rs. 35,87,735/- made u/s. 40(a)(ia), the Ld. AR inviting our attention to the Pan Nos and the amount given to the 8 parties in the paper book submitted that the Ld. CIT(A) grossly erred in disallowing these claims without considering the fact that for all the 8 parties, the assessee has

given Pan No and the amount paid to them. In this regard, the Ld. AR relied on the Hon'ble ITAT Hyderabad B Bench decision in the case of ACIT, Circle 1, Kurnool vs Mr. Mohammed Suhail, Kurnool in ITA No. 1536/Hyd/2014 dated 13.02.2015 which was subsequently relied on by the Hon'ble ITAT Kolkata B Bench in the case of Soma Rani Ghosh vs DCIT, Kolkata in ITA No. 1420/Kol/2015 dated 09.09.2016 also. Per contra, the Ld. DR supported the orders of the lower authorities.

5. We heard the rival submissions and gone through the relevant material. It is clear that the assessee has deducted TDS in one case and in other two cases, it is submitted that the recipients have paid the taxes and filed their returns. In the case of the 8 parties, the assessee has given Pan numbers. In the facts and circumstances, we are of the view that these issues require a fresh examination and hence we remit the issues back to the AO for a fresh examination. The assessee shall lay all materials in support of its contention and comply with the requirements of the AO in accordance with law. The Assessing Officer after giving adequate opportunity to the assessee shall decide the issues in accordance with law. The assessee's appeal is treated as allowed for statistical purposes.

6. In the result, the assessee's appeal is treated as allowed for statistical purposes.

Order pronounced on Wednesday, the 19th day of December, 2018 at Chennai.

Sd/-

(एन.आर.एस .गणेशन)

(N.R.S. GANESAN)

न्यायिकसदस्य/Judicial Member

Sd/-

(एसजयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 19th December, 2018

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त) अपील(/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF