

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "D" : DELHI

BEFORE SHRI BHAVNESH SAINI, J.M. AND SHRI O.P. KANT, A.M.

ITA.No.5159/Del./2015
Assessment Year 2011-2012

Shri Devendra Kumar Singh, M/s. Kartik Construction Co. 7, DDA Shopping Complex, Plot No.22, Geeta Mandir Marg, New Delhi – 110 060. PAN ABGPK7461E	vs.	The ACIT, Circle-62(1), E-2 Block, S.P. Mukherjee Civic Centre, J.L. Nehru Marg, New Delhi – 002.
(Appellant)		(Respondent)

For Assessee :	Shri B.K. Anand, FCA
For Revenue :	Smt. Naina Soin Kapil, Sr. D.R.

Date of Hearing :	19.12.2018
Date of Pronouncement :	02.01.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-20, Delhi, Dated 19.05.2015, for the A.Y. 2011-2012, on the following grounds :

1. *“That on the facts and circumstances of the case the CIT(Appeals) erred in confirming the ad hoc and estimated disallowance of Rs.3,24,371 out of Purchase or Material, Rs.2,50,000 out of Wages charges and Rs.15,978 on account of Electricity charges.*
2. *That the learned CIT(Appeal) erred in holding that merely because the Authorised Representative of the assessee had agreed to certain disallowance of expenses, the assessee was barred from agitating the same before the Appellate Authorities, contrary to the order of the Income Tax Appellate Tribunal relied before her which she was obliged to follow.”*

2. Briefly the facts of the case are that the assessee is an individual and engaged in the business of Civil Contractor under the name and style of M/s. Kartik Construction Co. A.O. noted that assessee has debited a sum of Rs.14.19 crores on account of purchase of material. The assessee was asked to

furnish details/vouchers for the same. The A.O. noted that some of the bills/vouchers are missing. The assessee company was directed to produce the vouchers for the same. The Counsel for Assessee explained before A.O. that these might have been misplaced due to work at various sites or many times they are incurred out of imprest. The A.O. accordingly, disallowed a sum of Rs.3,24,371/- on account of unverifiable purchase of material. The A.O. similarly noted that assessee claimed wages charges. No explanation has been filed on this issue. On being asked, the assessee has produced muster roll for verification. On examination of these muster rolls, it shows that some of the recipients have put their thumb impressions which are not verifiable. The A.O. after discussion noted that in order to prevent the leakage of the Revenue, addition of Rs.2,50,000/- was made on account of wages charges. The A.O. further noted that there is a difference of Rs.15,978/- on account of electric expenses as recorded in the books of account and as per the actual bills. The A.O. accordingly made addition of Rs.15,978/-.

3. The assessee challenged all these three additions before the Ld. CIT(A). The written submissions of the assessee is reproduced in the appellate order. The Ld. CIT(A) on perusal of the assessment record found that assessee had himself admitted to these additions before A.O. This fact was confronted to the assessee. In response thereto, assessee submitted that the additions have not been agreed by assessee himself, but, have been admitted by his Counsel. The assessee relied upon the Order of ITAT, Madras SMC Bench in the case of RT Balasubrahmanyam vs. ITO 50 ITD. The Ld. CIT(A) noted that since additions made by the A.O. have been agreed by the assessee, therefore, no interference is required in the matter. These additions were confirmed and appeal of assessee has been dismissed.

4. After considering the rival submissions, we are of the view that no interference is required in the matter. Learned Counsel for the Assessee contended that the Counsel for Assessee agreed for additions without authority from the

assessee. However, we find that before A.O. the Counsel for Assessee could not explain the above issues and did not produce the required documents, therefore, there was a justification for the Counsel for Assessee to have agreed for the above additions. In case proper documents and explanation would have been with the assessee, the Counsel for Assessee would never agree for these additions. It would, therefore, show that in the absence of required documents and explanation, the Counsel for Assessee agreed for these additions with the authority of the assessee. No material have been produced before us to substantiate the plea that the addition was agreed without authority of the assessee. Even before the Ld. CIT(A) assessee did not dispute that Counsel for Assessee agreed for these additions. Whatever observations/ findings have been noted by the A.O. in the assessment order have not been rebutted by the assessee through any evidence or material on record. Therefore, there was justification for agreed additions. It is well settled law that no appeal lies on agreed additions. We rely upon the decision of Hon'ble

Bombay High Court in the case of Jivatlal Purtapshi 65 ITR 261 (Bom.), decision of Hon'ble Kerala High Court in the case of Vama Davan Bhanu 330 ITR 559 (Ker.) and decision of Hon'ble Punjab & Haryana High Court in the case of Banta Singh Kartar Singh 125 ITR 239 (P & H). In this view of the matter, appeal of assessee was not maintainable before Ld. CIT(A) because the appeal was filed against the agreed additions above. No interference is required in the matter. Appeal of assessee has no merit and the same is accordingly dismissed.

5. In the result, appeal of Assessee is dismissed.

Order pronounced in the open Court.

Sd/-
(O.P.KANT)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 02nd January, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'D' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi