

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D': NEW DELHI

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.2622/Del/2013
Assessment Year : 2009-10

M/s Viku Impex Pvt.Ltd.,
C/o R.B. Arora & Co.,
Chartered Accountants,
38/6, West Patel Nagar,
New Delhi – 110 008.
PAN : AABCV7428H.
(Appellant)

Vs. Assistant Commissioner of
Income Tax,
Circle-17(1),
New Delhi.

(Respondent)

Appellant by : Dr. Rakesh Gupta, Shri Deepesh
Garg and Shri Shubham Sobti,
Advocates.
Respondent by : Smt. Naina Soin Kapil, Senior DR.

Date of hearing : 10.01.2019
Date of pronouncement : 14.01.2019

ORDER

PER G.D. AGRAWAL, VICE PRESIDENT :-

This appeal by the assessee for the assessment year 2009-10 is directed against the order of learned CIT(A)-19, New Delhi dated 31st January, 2013.

2. At the time of hearing before us, it is stated by the learned counsel that it is a small appeal involving disallowance of ₹42,35,010/-. That the Assessing Officer disallowed the same on the ground that the expenditure incurred by the assessee for earth/soil filling was not proved. That the assessee had engaged three contractors for the work of earth/soil filling and the Assessing Officer asked to produce those persons before him. He stated that one of the contractors viz., Shri

Jasbir Singh was in police custody at Haldwani at the relevant time and therefore, neither he could be produced nor any reply could be sent by him in response to Assessing Officer's notice u/s 133(6). He, therefore, submitted that if the matter is set aside and send back to the file of the Assessing Officer, the assessee would be able to furnish all necessary evidence relating to Shri Jasbir Singh and also other contractors and, if necessary, they can also be produced before the Assessing Officer.

3. Learned Senior DR relied upon the orders of authorities below. However, she has no serious objection for setting aside the matter to the file of the Assessing Officer.

4. After hearing both the sides, we deem it appropriate to set aside the orders of authorities below and restore the matter to the file of the Assessing Officer. We direct him to allow adequate opportunity of being heard to the assessee. Needless to mention that the assessee will produce all necessary evidence with regard to all the three contractors before the Assessing Officer and will cooperate in the assessment proceedings.

5. In the result, the appeal of the assessee is deemed to be allowed for statistical purposes.

Decision pronounced in the open Court on 14.01.2019.

Sd/-

(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Sd/-

(G.D. AGRAWAL)
VICE PRESIDENT

VK.

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1. Appellant : **M/s Viku Impex Pvt.Ltd.,
C/o R.B. Arora & Co., Chartered Accountants,
38/6, West Patel Nagar, New Delhi – 110 008.**
2. Respondent : **Assistant Commissioner of Income Tax,
Circle-17(1), New Delhi.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar