

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

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.Nos.5227/Del./2018  
Assessment Year 2013-2014

Topnotch Constructions Pvt. Ltd., Plot No.4, Amar Park, Zakhira, New Delhi. PIN-110035.PANAADCT7379P	vs.	The Income Tax Officer, Ward-25(3), D-Block, Room 108, Vikas Bhawan, New Delhi-002.
(Appellant)		(Respondent)

For Assessee :	Shri Sanjeev Jindal, C.A.
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	26.02.2019
Date of Pronouncement :	07.03.2019

**ORDER**

This appeal by Assessee has been directed against the order of Learned CIT(A)-9, New Delhi, Dated 15<sup>th</sup> May, 2018, for the assessment year 2013-2014, challenging the disallowance of Rs.1 lakh out of labour charges and addition of Rs. 2 lacs an account of sundry creditor Sri SN Gupta.

2. The facts of the case are that assessee has shown labour charges of Rs.2,17,500/-. The assessee was asked to furnish details of labour charges with substantiating

documents. The assessee, however, provided copy of the ledger account of labour charges. No other details have been furnished including muster roll or wages register etc. The assessing officer accordingly disallowed Rs.1 lakh.

2.1. The assessing officer further noted that assessee has received credit of Rs.2 lacs from Shri S.N. Gupta. Notice under section 133(6) was issued, which returned un-served with the remarks “incomplete address.” The assessee could not substantiate the genuineness of the credit through any documentary evidences, therefore, the assessing officer made the addition of Rs.2 lacs.

3. Both the additions were challenged before the Learned CIT(A). The Learned CIT(A) noted that assessee has failed to produce any documentary evidences to substantiate the claim of labour charges. It was noted that it is well settled Law that onus is on the party to adduce cogent evidence in respect of the claim. Therefore, addition of Rs.1 lakh was confirmed. Further, as regards additions of Rs.2 lakhs, it was noted that assessee has merely furnished

confirmation of the ledger account in respect of Shri S.N. Gupta. No other evidence has been produced by assessee to prove the genuine credit in the matter. No evidence was also filed at the appellate stage. Even no confirmation was filed from the creditor. Therefore, addition of Rs.2 lacs was also confirmed.

4. I have heard the Learned Representatives of both the parties and perused the material available on record.

5. As regards the disallowance of labour charges, the fact remains the same that assessee did not produce any documentary evidences in respect of the claim of labour charges. No evidence adduced before assessing officer or the Learned CIT(A). Same is the position before the Tribunal. Therefore, in the absence of any supporting documents, the claim of assessee cannot be accepted. The burden is upon assessee to prove the claim of labour expenses because assessee claimed deduction. The onus upon assessee has not been discharged. Thus, the Orders of the authorities below were justified in disallowing the labour expenses. This Ground of appeal of assessee is dismissed.

6. As regards cash credit of Rs.2 lakhs, Learned Counsel for Assessee submitted that he has filed affidavit of the creditor Shri S.N. Gupta Dated 12<sup>th</sup> February, 2019 in the paper book along with confirmation of account and Copy of the Bank statement with PAN.

7. Learned Departmental Representative objected to the same because assessee has not filed any application for admission of the additional evidences and that no reasons have been explained as to why the same was not produced before the authorities below. The Learned Departmental Representative, therefore, submitted that same may not be admitted for deciding the appeal.

8. Considering the submissions of both the parties, in the light of Orders of the authorities below, it is clear that assessee failed to prove identity of the creditor, his creditworthiness and genuineness of the transaction in the matter before the authorities below because the assessee did not produce any documentary evidences to prove all the three conditions of Section 68 of the Income Tax Act, 1961. Though the assessee filed affidavit, confirmation and bank

statement of the creditor before the Tribunal, but, no steps have been taken by the assessee to make prayer for admission of the additional evidences. No reasons have been given as to why the same were not filed before the authorities below. Therefore, such documents which were not filed before the authorities below, could not be entertained at this stage. The request of the Learned Counsel for the Assessee is, therefore, rejected that same may be admitted for hearing. In this view of the matter, no interference is called for. This Ground of appeal of assessee is also dismissed.

9. In the result, appeal of Assessee dismissed.

Order pronounced in the open Court.

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 07<sup>th</sup> March, 2019

VBP/-

Copy to

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

// BY Order //

Assistant Registrar : ITAT Delhi Benches :  
Delhi.