

IN THE INCOME TAX APPELLATE TRIBUNAL
RANCHI BENCH, RANCHI
(Before Shri S. S. Godara, J.M. & Dr.A.L.Saini, A.M.)

ITA No. 04/Ran/17 : Asstt. Year : 2012-13

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| M/s. Ramshakal Construction Private Limited PAN: AADCR4544G (APPELLANT) | Vs | D.C.I.T, Cir-1, JSR (RESPONDENT) |
|---|----|---|

Appellant/assessee by : None appeared
Respondent/department by : Shri Chandan Das, JCIT/ld.DR

| | |
|------------------------------|-----------------------------------|
| Date of Hearing : 11-01-2019 | Date of Pronouncement: 22-02-2019 |
|------------------------------|-----------------------------------|

ORDER

PER BENCH:

The captioned appeal filed by the assessee, is directed against the order dated 07-10-2016 passed by the ld. Commissioner of Income-tax (Appeals), Jamshedpur, which in turn arises out of an order passed by the Assessing Officer u/s. 143(3) of the Income-Tax Act, 1961 (in short, the Act) dated 11-03-2015.

2. At the time of hearing none appeared on behalf of assessee in spite of issuance of notice for hearing more than one occasions. The learned Departmental Representative (ld.DR) was present for the appellant revenue. In the absence of any appearance of the assessee, the appeal is being dispose of ex parte qua the assessee after hearing the ld. DR for the revenue on merits in terms of Rule 24 of ITAT Rules, 1963.

3. Grounds of appeal raised by the assessee are as follows:

1. For that the appellant is engaged in civil contract work and derived income from execution of contract work in various government departments. Ld. CIT(A) confirmed the disallowance of 5% of the expenses claimed under different heads as made by Ld. A.O. Disallowance was made out of tender fee, telephone expenses, security expenses, printing & stationery and deductions. All the expenses are fully verifiable and there was no reason for making disallowance out of expenses claimed.

2. For that appellant disclosed a reasonable profit on the contract work executed which was accepted by Ld. A.O. The accounts were maintained in regular course and were verifiable. No defect whatsoever was found in course of assessment proceedings. Ld. CIT(A) was, therefore, not justified in making disallowance out of expenses which are fully verifiable.

3. For that instructions should have been given to allow credit for the TDS deducted for which appellant is having sufficient evidence. Ld. CIT(A) was not justified in suggesting that this ground is not appealable. Appellant pray that credit for TDS deducted should be allowed in full for which evidence was available with the appellant.

4. For that other grounds in detail will be argued at the time of hearing.

4. Ground nos. 1 to 2 relates to confirmation of disallowance of 5% of the expenses claimed under different heads.

5. The brief facts qua the issue are that during the assessment proceedings the assessee was required to produce books of account such as Cash Book, ledger, bills/vouchers for examination of expenses through accounts. The same were produced by the A.R. of assessee. Books of account produced were accordingly

examined and verified by AO. The bills & vouchers in respect of various expenses debited in P&L account have been checked at random basis and some 'discrepancies were found by AO. Some of the bills/vouchers were found to be petty in nature and internally vouched. Considering this fact, 5% of expenses incurred under respective heads were disallowed and added back to the total income of assessee during the period under consideration. Head-wise detection of the same and amount of disallowance considered are as under:-

| Sl. | Head | Total Expense debited | 5% of expenses disallowed on estimate basis |
|-----|-------------------------|-----------------------|---|
| 1. | Deduction | 48,55,829/- | 242,791/- |
| 2. | Printing and Stationery | 102,000/- | 5,100/- |
| 3. | Security Expenses | 108,000/- | 5,400/- |
| 4. | Telephone expenses | 32205/- | 1,610/- |
| 5. | Tender Fee | 21060/- | 1,053/- |
| | Total | 51,19,094/- | 2,55,954/- |

6. On appeal, the Id. CIT(A) confirmed the addition made by AO observing the followings :

“4.3. I have gone through the order of the learned AO as well as the written submission made by the appellant. The AO should have been specific in disallowances made by him. But the assessee in his submission stated himself that disallowances was made for want of few external vouchers as evidences for expense to the satisfaction of the AO. This implies that there should have been disallowances but should have been specific. The facts and decision quoted by assessee does not favour him. The assessee has quoted the decision of Ester Industries Ltd. Where it is held that making addition on ad-hoc basis without calling assessee’s explanation was not justified.

In assessee’s case, the AO found discrepancy. This has been discussed during assessment proceeding and thereafter the addition is considered.

The decision in the case of Tulsi Narayan Garg itself says in civil construction works it is not practical to maintain proper voucher etc of expenses. The assessee did not state the consequences. Such omission on the part of the assessee definitely attracts addition. Considering all the facts, I do not find disallowance made @5% of expenses as excessive. Hence addition of Rs.2,55,954/- is hereby confirmed “.

7. We note that AO found discrepancy in bills and vouchers submitted by assessee, therefore, the Id. CIT(A) made disallowance @ 5% of expenses. Since disallowance was made on account of specific discrepancy, hence, we confirm the order passed by the Id. CIT(A) on this issue.

8. The assessee's grievance in ground no. 3 is that Assessing Officer has not given the credit of TDS certificates. We direct the Assessing Officer to allow credit for TDS deducted, after verifying the TDS certificates.

9. In the result, the appeal of the assessee is partly allowed for statistical purposes

Order Pronounced in the Open Court on 22-02-2019

Sd/-

(S. S. Godara)
Judicial Member

Sd/-

(Dr. A.L.Saini)
Accountant Member

Dated: 22 -02-2019

*PRADIP (Sr.PS)

Copy of the order forwarded to:

1. The Appellant/Assessee: M/s. Ramshakal Construction Private Limited Road No.4 Block No. 120/2/4 Bagbera Colony, JSR-831002.
- 2 The Respondent/Revenue : The CIT(Appeals),JSR
3. The CIT-, 4. The CIT(A)-,
5. DR, Ranchi Benches, Ranchi

True Copy, By order,

Assistant Registrar /Senior P.S
ITAT, Ranchi Benches