

आयकर अपीलीय अधिकरण] पुणे न्यायपीठ “बी” पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “B”, PUNE

BEFORE MS. SUSHMA CHOWLA, JM AND
SHRI ANIL CHATURVEDI, AM

आयकर अपील सं / ITA No.1311/PUN/2017

निर्धारण वर्ष / Assessment year : 2011-12

K.R. Traders,
G3/4 Camellias, Green Acers,
Pune – 411048.

..... अपीलार्थी /
Appellant.

PAN : AABFK3457G.

बनाम v/s

The Income Tax Officer,
Ward 2(2), Pune.

..... प्रत्यर्थी /
Respondent

Assessee by : Shri Sharad A. Vaze.

Revenue by : Shri Pankaj Garg.

सुनवाई की तारीख / Date of Hearing : 19.07.2019	घोषणा की तारीख / Date of Pronouncement: 19.08.2019
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आदेश / ORDER

PER ANIL CHATURVEDI, AM :

1. This appeal filed by the assessee is emanating out of the order of Commissioner of Income Tax (A) – 7, Pune dated 10.02.2017 for the assessment year 2011-12.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is a partnership firm stated to be engaged as Civil Contractor, engaged in construction of residential and technical accommodation for Central Government. Assessee electronically filed its return of income for A.Y. 2011-12 on 30.09.2011 declaring total taxable

income of Rs.12,39,480/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 25.03.2014 and the total income was determined at Rs.1,83,79,140/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who vide order dt.10.02.2017 (in appeal No.PN/CIT(A)-7/Wd-2(2)/306/2014-15) dismissed the appeal of assessee. Aggrieved by the order of Ld.CIT(A), assessee is now in appeal before us and has raised the following effective ground.

“The learned CIT(A)-VII, Pune has erred in law as well as in facts, in confirming the addition of Rs.41,86,961/- being 10% of labour charges, on ad hoc basis.”

3. During the course of assessment proceedings, AO noticed that assessee had claimed labour charges at Rs.4,18,69,611/-. On perusal, the labour bills claimed as expenses, AO noticed that the entire expenditure was incurred in cash. Considering the facts that the payments were in cash and the vouchers were self made and not fully verifiable, AO was of the view that the entire expenditure is not allowable. He accordingly disallowed 10% of the labour expenses and thus made addition of Rs.41,86,961/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who upheld the order of AO.

Aggrieved by the order of Ld.CIT(A), assessee is now before us.

4. Before us, Ld.A.R. reiterated the submissions made before AO and Ld.CIT(A) and further submitted that assessee is a Government Contractor registered with M.E.S. Chief Engineer, Southern Command and it receives contracts from MES for construction of buildings for

Central Government. He submitted that the payment to labourers have to be made in cash and that though the AO has given a finding that the payments are not covered u/s 40A(3) of the Act but the AO has not doubted the payments and held the vouchers being self made are not to be fully verifiable and disallowed 10% of the labour charges. He submitted that in A.Y. 2009-10 on the gross receipts of Rs.8.87 crores and labour charges of Rs.2.46 crores, the disallowance was made to the extent of Rs.2,50,000/- and now the disallowance is on higher side. He further submitted that if the reasonable disallowance is upheld by the Tribunal, it would be acceptable to the assessee. Ld. D.R. on the other hand, supported the order of AO.

5. We have heard the rival submissions and perused the material on record. The issue in the present ground is with respect to disallowance of 10% of labour charges. It is an undisputed fact that assessee is a Government Contractor registered with M.E.S. and undertakes the work of construction of residential and technical accommodation of Central Government and for which it has to employ the labour. We find that the payment of labour charges has not been doubted by the AO and further AO has also given a finding that the payments are not covered u/s 40A(3) of the Act. The AO only for the reason that the vouchers are not fully verifiable disallowed 10% of the expenses. Considering the totality of the facts and the fact that in earlier year i.e., in A.Y. 2009-10 on a turnover of Rs.8.87 crores and labour charges of Rs.2.46 crores, the disallowance was made to the extent of Rs.2,50,000/- and after considering the submissions of Ld.A.R., we are of the view that in the present case, the ends of justice shall be met if the disallowance is restricted to 5% of labour charges. We therefore direct that the

disallowance be upheld to the extent of 5% of labour charges as against 10% made by the AO. We thus direct accordingly. **Thus, the ground of assessee is partly allowed.**

6. **In the result, the appeal of assessee is partly allowed.**

Order pronounced on 19th day of August, 2019.

Sd/- (SUSHMA CHOWLA) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (ANIL CHATURVEDI) लेखा सदस्य / ACCOUNTANT MEMBER
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पुणे Pune; दिनांक Dated : 19th August, 2019.

Yamini

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. CIT(A)-7, Pune.
4. Pr. CIT-6, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" / DR, ITAT, "B" Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER

// True Copy //

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune.