



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 457/CTK/2017

Assessment Year : 2014-2015

M/s. Anu Gitanjali Creations, Mr Raj Kumar Shukla, Panchamukhi Chhak, Simlipada, Angul.	Vs.	ITO, Ward -1, Angul.
PAN/GIR No.AAUFA 4228 L		
(Appellant)	..	(Respondent)

Assessee by : Shri Ravin Panjwani, AR
Revenue by : Shri S.M. Keshkamat, CIT DR

Date of Hearing : 21/08/ 2019

Date of Pronouncement : /09/ 2019

ORDER

Per C.M.Garg,JM

This is an appeal filed by the assessee against the order of the CIT(A),2, Bhubaneswar for the assessment year 2014-2015.

2. Although the assessee has raised several grounds of appeal but the only issue agitated by the assessee is that the CIT(A) is not justified in confirming the addition of Rs.3,00,000/- made by the Assessing Officer u/s.40(a)(ia) of the Act.

3. The facts of the case are that the assessee is a partnership firm having its operation at Angul. The assessee filed its return of

income showing income of Rs.12,03,430/-. A survey operation u/s.133A of the Act was conducted in the business premises of the assessee on 29.10.2013. The Assessing Officer noticed that the assessee has claimed payment of rent at Rs.3,00,000/- by debiting the same to the audited profit and loss account. The Assessing Officer required the assessee to furnish the evident in support of payment of rent and TDS made if any. Since the assessee could not evident the TDS payment, the Assessing Officer disallowed the payment of Rs.3,00,000/- towards rent without deduction of TDS and added the same to the income of the assessee.

4. On appeal, the CIT(A) confirmed the addition made by the Assessing officer, observing that in order to claim the deduction, the assessee had to furnish certificate in form No.26A signed by a Chartered Accountant as prescribed under Rule 31 ACB of I.T.Rules, 1962 to Director of General of Income Tax (System) or to the person authorized by Director General of Income Tax (Systems). However, the assessee has not done this. Hence, the assessee is in appeal before us.

5. At the time of hearing, Id A.R. of the assessee submitted that the amount of Rs.3,00,000/- was paid as rent and the

recipient of amount has offered the tax in his return of income. He submitted that the TDS cannot be deducted from the same amount by two different persons. He also furnished a certificate from Chartered Accountant in Form No.26A along with the copies of income tax return as declared by the payee. In view of above, he urged to delete the addition in the hands of the assessee.

6. On the other hand, Id D.R. supported that this information was not furnished before the authorities below and stated that the matter be restored to be file of the AO for verification of the certificate submitted by the assessee.

7. We have considered the rival submissions and perused the materials on the return of the Tribunal. The addition was made solely on the ground that the certificate in Form No.26A was not furnished before the lower authorities in support of the claim that the tax has been deducted towards the rent payment. It is the contention of the assessee that the recipient of the amount has offered the amount to tax and in support of the same, has furnished a certificate from the Chartered Accountant in Form No.26A.

8. Considering the apparent facts and materials on record, we are of the considered view that the matter requires fresh

adjudication by the Assessing Officer on the basis of certificate in Form No.26A to be furnished by the assessee in support of the claim that the recipient has offered the amount of Rs.3,00,000/- to tax. The Assessing Officer is directed to verify the certificates to be submitted by the assessee and adjudicate the issue afresh as per law.

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

Order pronounced on 4 /09/2019.

Sd/-	sd/-
(Laxmi Prasad Sahu)	(Chandra Mohan Garg)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Cuttack; Dated 4 /09/209
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant: M/s. Anu Gitanjali Creations,
Mr Raj Kumar Shukla, Panchamukhi Chhak,
Simlipada, Angul.
2. The Respondent. ITO, Ward -1, Angul.
3. The CIT(A)-2, Bhubaneswar
4. Pr.CIT- 2, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack