

IN THE INCOME TAX APPELLATE TRIBUNAL "B-SMC" BENCH : KOLKATA

[Before Hon'ble Shri S.S. Godara, JM]

I.T. A No. 647/Kol/2019 A.Y 2013-14

M/s. Sigma Services
PAN: ABVFS3216J
(Appellant)

Vs.

I.T.O. Ward 2(4), Durgapur
(Respondent)

For the Appellant/Assessee : Shri Ankit Jalan, Id. AR

For the Respondent /Department : Shri Zafarul Haq Tanveer, Addl. CIT, Id.Sr.DR

Date of Hearing : 27-08-2019

Date of Pronouncement : 18 -09-2019

ORDER

Shri S.S. Godara, JM:

1. This Assessee's appeal for assessment year 2013-14 arises against the CIT(A), Durgapur's order dated 30-11-2016 passed in case no. 41/CIT(A)/DGP/2016-17 involving proceedings u/s 143(3) of the Income-tax Act, 1961 (in short 'Act').

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal are as under:-

1. For that on the facts and in the circumstances of the case and in law, the assessment order passed by the Ld. A.O. is grossly bad in law and void ab initio as the same is passed without jurisdiction, in spite of the fact that the appellant had mentioned that the Ld. A.O. is not having the jurisdiction. The assessment order is liable to be quashed. (Tax Effect: 9,88,750/-).

2. *Without prejudice to above, for that on the facts and in the circumstances of the case and in law, the Ld. CIT(A) grossly erred in confirming the additions made in the assessment order passed by the Ld. A.O. without providing sufficient and proper opportunity of being heard. The order passed in haste is naturally unjustified and is liable to be set aside before the Ld. CIT(A) for providing proper opportunity of being heard. (Tax Effect: Rs. 9,88,750/-).*

3. *Without prejudice to above, for that on the facts and in the circumstances of the case, the order of the Ld. CIT(A) is non speaking and is not passed considering the merits involved in the case and is therefore, liable to be set aside before the Ld. CIT(A) for providing proper opportunity of being heard.*

4. *Without prejudice to above, for that on the facts and in the circumstances of the case, the Ld. CIT(A) was wrong and unjustified in confirming the addition to the tune of Rs. 18,67,048/- on account of sundry debtors. The addition is liable to be deleted. (Tax Effect: 5,76,918/-).*

5. *Without prejudice to above, for that on the facts and in the circumstances of the case, the Ld. CIT(A) was wrong and unjustified in confirming the addition to the tune of Rs. 1,50,000/- on account of audit fees. The addition is liable to be deleted. (Tax Effect: 46,350/-).*

6. *Without prejudice to above, for that on the facts and in the circumstances of the case, the Ld. CIT(A) was wrong and unjustified in confirming the addition to the tune of Rs. 2,33,952/- on account of interest expenditure. The addition is liable to be deleted. (Tax Effect: 72,291/-).*

7. *Without prejudice to above, for that on the facts and in the circumstances of the case, the Ld. CIT(A) was wrong and unjustified in confirming the addition to the tune of Rs. 3,973/- on account of bank balance. The addition is liable to be deleted. (Tax Effect: 1,228/-).*

8. *Without prejudice to above, for that on the facts and in the circumstances of the case, the Ld. CIT(A) was wrong and unjustified in confirming the addition to the tune of Rs. 9,44,857/- made on ad hoc basis. The addition is liable to be deleted. (Tax Effect: 2,91,961/-).*

2. It transpires during the course of hearing that the Assessing Officer has framed his assessment on 28-03-2016 and the CIT(A)'s lower appellate order under challenge ex parte against the assessee whilst making various additions/disallowances.

3. Learned counsel has filed assessee's affidavit dt. 23-08-2019 that he had shifted his business from Durgapur to Kolkata long back and therefore relevant notice of hearing in both the lower proceedings could not be served on him. I therefore decline the Revenue's arguments in support of both the lower authorities' action and deem it appropriate to restore the instant case back to the Assessing officer for fresh adjudication of all the above issues raised herein within three effective opportunities of hearings as per law.

4. This Assessee's appeal is allowed for statistical purpose in above terms.

Order pronounced in the Court on 18-09-2019

Sd/-

[S.S.Godara]
Judicial Member

Dated : 18-09-2019

**PRADIP, Sr. PS

Copy of the order forwarded to:

1. Appellant/Assessee: M/s. Sigma Services C/o Agarwal Vishwanath & Associates
133/1/1A S.N Banerjee Road, Pushkal Bhawan 3rd Fl., Kolkata-13.
2. Respondent/Department: The I.T.O. Ward 2(4), Kolkata.
- 3..C.I.T(A).- 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Assistant Registrar
H.O.O/D.D.O Kolkata