

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD - BENCH 'D'

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

ITA No.2648/AHD/2017

निर्धारण वर्ष/ Asstt.Year: 2012-2013

Kunal Chaturbhuj Nagrani Prop. Ryan International 8, Rameshwar Park Society B/h. Narain Society Maninagar, Ahmedabad 380 008. PAN : ACIPN 5122 G	Vs.	DCIT, Cir.6(1) Ahmedabad.
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(Applicant)		(Responent)
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Assessee by :	Shri H.V. Gandhi, AR
Revenue by :	Shri Mudit Nagpal, Sr.DR

सुनवाई की तारीख/Date of Hearing : 23/09/2019

घोषणा की तारीख /Date of Pronouncement: 24/09/2019

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

Assessee is in appeal before the Tribunal against order of Id.CIT(A)-6, Ahmedabad passed for the assessment year 2012-13.

2. Grounds of appeal taken by the assessee are not in consonance with Rule 8 of the Income Tax Rules, 1963 – they are descriptive and argumentative in nature. In brief, grievance of the assessee revolves around two fold issues viz. (a) the Id.CIT(A) has erred in confirming reopening of the assessment, (b) the Id.CIT(A) has erred in confirming the addition of Rs.93,84,075/-.

3. With the assistance of the ld.representatives, we have gone through the record carefully. As far as reopening of the assessment is concerned, no arguments were advanced on this point. Hence, this ground of appeal is rejected.

4. With regard to the addition of Rs.93,84,075/- is concerned, the case of the assessee is that it is providing BPO services. It has raised bill to Suchitra Enterprises. According to the AO, invoice raised in February and March, 2011 and received payment after March, 2011 ought to be recognized in the Asstt.Year 2012-13, since the assessee has recognized the income of these invoice for Asstt.Year 2011-12 by enhancing its deduction under section 10A of the Act. Therefore, the ld.AO has reopened the assessment and reduced deduction admissible in the Asstt.Year 2011-12. He added this receipt in the Asstt.Year 2012-13.

5. Short question before us is, whether a sum of Rs.93,84,075/- is assessable to tax in the asstt.Year 2012-13 or in the Asstt.Year 2011-12, the stand of the Revenue is that this receipt is taxable in the asstt.Year 2012-12, whereas the stand of the assessee is that these are assessable in the Asstt.Year 2011-12. This issue has come up before the Tribunal in the Asstt.Year 2011-12. The Tribunal has held in ITA No.1068/Ahd/2016 that this receipt is assessable in the Asstt.Year 2011-12, and the assessee eligible to claim deduction under section 10A on these receipts. The relevant finding of the Tribunal reads as under:

“8.2. We shall first address ourselves to the first objection of the Assessing Officer toward credibility of export turnover declared and consequent export profit flowing therefrom. On a perusal of

the assessment order, it appears that the Assessing Officer was mainly guided by the fact that while the assessee has received payment against all invoices raised in other months as to instantly with no outstanding, the assessee has not received any payment against two additional invoices raised in Feb-2011 & March-2011 of USD 104850 each equivalent to Rs.93,84,075/- in aggregate. The Assessing Officer has narrated suspicious circumstances for non-accrual of income in the FY 2010-11. It is the case of the Assessing Officer that the invoices, in fact, relate to subsequent assessment year and has been merely predated to claim wrongful exemption under s.10A being the last year of eligibility. The Assessing Officer computed the Gross Profits relating to this year and the subsequent year to prop up its case against the assessee. It is the case of Assessing Officer while the two invoices once taken into account in subsequent year, the realigned GP would be somewhat similar. 8.3. On objective consideration, we note that while it is factually correct that payment for two invoices were not received in the same manner as was received for other invoices raised to its customer, namely; M/s.Suchita Enterprise Inc. this aberration, in our view, cannot be a ground for doubting the invoices itself. The assessee has demonstrated from the 'Bank Realization Certificates' (BRCs) issued by the Bank that the assessee has received consideration against the services rendered for the period specified therein which falls in the FY 2010-11. Simply because the payment has been received in the subsequent year would not tantamount to deferral of accrual of income also to the subsequent year. Merely because the deduction under s.10A comes to an end in this year should not necessarily trigger unwarranted suspicion against the assessee. The case made out by the Assessing Officer towards fall in Gross Profit etc. is refutable. It is difficult to dislodge the claim of the assessee based on such shallow evidences. The assessee, on the other hand, requires to be believed on account of reporting the transactions in SOFTEX form with STPI including this turnover as well as in the light of Bank Realization Certificates placed on record. The adjustment made by the Assessing Officer towards

reduction of export turnover and export profits is thus requires to be discarded.”

6. Since receipts have already been taxed in the Asstt.Year 2011-12, they cannot be tax again the Asstt.Year 2012-13. We allow this fold of grievance and delete the impugned addition.

7. In the result, appeal of the assessee is partly allowed.

Order pronounced in the Court on 24th September, 2019 at Ahmedabad.

**Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER**