

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'D', NEW DELHI**

**BEFORE SH. BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SH. R. K. PANDA, ACCOUNTANT MEMBER**

ITA No.2832/Del/2013  
Assessment Year: 2009-10

DCIT Circle 18 (1) New Delhi	Vs.	Yuanda Aluminium Engineering (India) Pvt. Ltd. C-306, First Floor, Defence Colony, New Delhi-110024 PAN No. AAACY3502E
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Smt. Naina Soin Kapil, Sr. DR.
Respondent by	Sh. P. C. Yadav, Advocate

Date of hearing:	01/08/2019
Date of Pronouncement:	10/10/2019

**ORDER**

**PER R.K PANDA, AM:**

This appeal filed by the revenue is directed against the order dated 28.02.2013 of CIT(A)-XXI, New Delhi relating to A.Y. 2009-10.

2. The only effective ground raised by the revenue reads as under :-

1. *“Ld. CIT(A) erred in law and on the facts of the case in deleting the addition made by the AO to the total income of the assessee amounting to Rs.5,95,49,188/- by treating the amount as WIP.”*

3. Facts of the case, in brief, are that the assessee is a company engaged in the business of Aluminium Engineering Works. It filed its return of income on 22.09.2009 declaring loss of Rs.84,90,242/-. During the course of assessment proceedings the AO noted that assessee has debited an amount of Rs.50,57,38,085/- as expenditure on account of contract purchases during the year. Details in this regard were filed vide letter dated 08.11.2011 and its annexure as per which the following are the details in respect of contract purchases.

Sl. No.	Bill Date	Bill. No.	Amount
1	28/02/2009	002	11,10,09,604/-
2	06/03/2009	003	7,48,43,323/-
3	16/03/2009	004	17,18,28,951/-
4	25/03//2009	006	7,68,47,094/-
5	31/03/2009	002	3,06,09,244/-
6	25/03/2009	001	4,05,99,869/-
		Total	50,57,38,085/-

The AO observed that at Sl. No. 5 & 6 the amounts of Rs.3,06,09,244/- and Rs.4,05,99,869/- are clearly mentioned in the invoices to have been incurred for payment of labour charges for installations and management fee to M/s Alupro Building Systems Pvt Ltd under sub contract agreement. After deducting the sums of Rs.3,06,09,244/- and Rs.4,05,99,869/- from the total amount of Rs. 50,57,38,085/- the balance amount works out to Rs.43,45,28,972/- which is the actual

value of works contracts purchase. However, the assessee has shown an amount of Rs.37,49,79,784/- as works contract sales. According to the AO the assessee was not able to justify why the works contract sales have been shown at the price which is less by Rs.5,95,49,188/- (434528972 - 374979784) from the amount of works contract purchase. The assessee has not reflected any work in progress in the trading account. In view of the above the difference of Rs.5,95,49,188/- was treated by the AO as work in progress and made addition of the same to the total income of the assessee.

4. Before CIT(A) the assessee submitted that as per the computation of the AO, the total works contract purchases are amounting to Rs.43,45,28,972/- whereas this amount of contract work purchases includes labour charges of Rs.17,98,41,355/-. It was submitted that billing made to M/s. Larsen & Turbo Ltd. made on 31.03.2009 for Rs.37,49,79,784/- includes labour charges paid to M/s. Alupro Building Systems Pvt. Ltd. for Rs.3,06,09,244 & Rs.4,05,99,869/-. So it is incorrect that Rs.3,06,09,244 & Rs.4,05,99,869/- formed part of WIP because all the labour charges paid to M/s. Alupro Building Systems Pvt. Ltd. were billed to M/s. Larsen & Toubro Ltd. on dated 31.03.2009. It was submitted that works contract sales are exceeding works contract purchases. The Assessing Officer disallowed the works contract purchases just on the basis of labour charges and he did not take into the actual facts and details of the matter. It was submitted that labour charges & the

amount of purchases & Sales, both, have been invoiced separately to M/s. Larsen & Tourbo Limited. Assessing Officer while computing the income of the assessee just considered that the amount of sales were less than the purchases. He did not take into the account that the amount of purchases included a part of labour charges. Further assessing officer didn't take in to account the invoice of Rs.1,44,20,4983.40 in respect of labour chages booked as income and billed to M/s. Larsen & Tourbo Ltd.

5. Based on the arguments advanced by the assessee and submissions made the Ld. CIT(A) called for a remand report from the AO. The remand report of the AO was confronted to the assessee. After considering the contents of the remand report and the submission of the assessee to such remand report the Ld. CIT(A) deleted the disallowance by observing as under :-

*3. Ground No.1 to 6 are taken together as these are interlinked. In this regard, Ld.AR of the appellant has relied on trading account which is available at page No.45 of the paper book, wherein, there are two figures viz, credit side labour charges (L&T) Rs. 144204983.40/- and in the debit side there is work contract purchase (Alupro) Rs.505738084.88/-. In this regard, it has been contended by the Ld.AR of the appellant that AO has not taken into account labour charges of L&T and has reduced work contract purchase by sum of Rs.7,11,99,113/-. It has been further demonstrated by the Ld.AR of the appellant that these details are available with the AO at the time of assessment proceedings as is evident from page No.56 of the paper book, wherein, tax invoice amounting to Rs.144204983.40/- in the name of L&T Ltd. is available. Furthermore, it has been contended that at page No.51, there is labour charges for installation amounting to*

*Rs.30609244.00/- in the name of Alupro Building Systems (P)Ltd. and at page No.52, there is contract sales amounting to Rs.40599869/-. Ld.AR of the appellant has further demonstrated that at page No.47, there is contract purchases ledger account as per which total amount is to the tune of Rs.505738084.88/-. However, AO has not considered last two entries belonging to Alupro Building Systems Pvt. Ltd. which has caused difference and ultimately lead to addition. Total contract purchase ledger account available at page No.47 is reproduced hereunder:-*

Date	Particulars	Vch type	Vch No.	Debit	Credit
28.2.2009	To Alupro Building Systems Pvt. Ltd. Journal			31 11,10,09,604,42	
6.3.2009	To Alupro Building Systems Pvt. Ltd. Journal			33 7,48,43,323,43	
16.3.2009	To Alupro Building Systems Pvt. Ltd. Journal			44 17,18,28,951.00	
25.3.2009	To Alupro Building Systems Pvt. Ltd. Journal			60 7,68,47,093	
31.3.2009	To Alupro Building Systems Pvt. Ltd. Journal			64 3,06,09,244.00	
	To Alupro Building Systems Pvt. Ltd. Journal			66 4,05,99,869	
				<b>50,57,38,084.88</b>	
				<b>50,57,38,084.88</b>	
			<b>50,57,38,084.88</b>	<b>50,57,38,084.88</b>	

**3.1** *In t31.3.2009his regard, it is found that AO has not considered last two entries. The action of AO for not considering two entries is found to be erroneous and without basis because Ld.AR of the appellant has been able to show that not considering two entries of the work contract has got not basis. Furthermore, AO has not disputed the trading account of the appellant available at page No.45. Thus, it is found that AO's action is in a very arbitrary manner. If you are accepting certain bills of the same party, viz, out of six, four bills have been accepted, there is no justification for not allowing the remaining two bills. I have gone through the findings of the AO in the assessment order and remand report ,written*

submission and rejoinder of the Ld.AR in this regard ,and after considering all the materials, I come to the conclusion that by submission dated 22.10.2012, vide para 6&7 Ld.AR of the appellant has explained the whole things by submitting as under:-

<i>Particulars</i>	<i>• Amount (INR)</i>
<i>Amount of purchases disallowed from M/s.Alupro Building Systems Pvt.Ltd. Bill No.011 dated 25/03/2009</i>	<i>40,599,869.00</i>
<i>BillNo.002 dated 31/03/2009</i>	<i>30,609,244.00</i>
<i>Total purchases disallowed</i>	<i>71,209,113.00</i>
<i>Works contract purchases debited to Profit &amp; LossA/c.</i>	<i>505,738,085.00</i>
<i>Less: Amount of Purchases disallowed</i>	<i><u>71,209,113.00</u></i>
<i>Total works contract purchases allowed(A)</i>	<i>434,528,972.00</i>
<i>works contract sales (B)</i>	<i>374,979,784.00</i>
<i>Total amount disallowed/added back to the</i>	
<i>Income of the assessee(A-B)</i>	<b><i>59,549,188.00</i></b>

The amount of Rs.59549188.00 was treated as work in progress by the Assessing Officer.

7. Income of the company s completed by Assessing Officer was as under:

<i>Particulars</i>	<i>Amount (INR)</i>
<i>Income as per return filed</i>	<i>(8,490,242.00)</i>
<i>Add: Disallowance of amount treated as work in progress</i>	<i>59,549.188.00</i>
<i>Add: Disallowance of amount paid to M/s.Kochar &amp;Co.</i>	<i>400,000.00</i>
<i>Total income</i>	<b><i>51,458,946.00</i></b>
<i>Rounded off</i>	<i>51,458,950.00</i>

3.2 In view of the above discussion, in my considered opinion ground No.1 to 6 deserves to be allowed.”

6. Aggrieved with such order of the CIT(A), the revenue is in appeal before the Tribunal.

7. The Ld. DR strongly supported the order of the AO whereas the Ld. Counsel for the assessee heavily relied on the order of the CIT(A).

8. We have considered the rival arguments made by both the sides, perused the orders of the AO and CIT(A) and the paper book filed on behalf of the assessee. We find the AO in the instant case has made addition of Rs.5,95,49,188/- on the ground that the assessee has not reflected any work in progress in the trading account and the assessee was unable to give proper explanation, regarding why the work contract sales have been shown at the price which is less by Rs.5,95,49,188/- from the amount of works contract purchases. We find the Ld. CIT(A) deleted the addition, the reasons of which have already been reproduced in the preceding paragraph. We do not find any infirmity in the order of the CIT(A). The factual finding given Ld. CIT(A) that the AO has not considered the last two entries belonging to M/s. Alupro Buildings Systems Private Limited which has caused difference and ultimately led to the addition could not be controverted by the Ld. DR. Further the observation of the CIT(A) that AO has also not disputed the trading account of the assessee could not be controvert by the Ld. DR. Since the Ld. CIT(A) after considering the submission of the assessee, remand report of the AO and rejoinder of the assessee to such remand report has deleted the addition after verifying the relevant material and since the Ld. DR could not controvert the factual findings given by the CIT(A), therefore, in absence of any contrary material brought to our

notice against the factual findings given by CIT(A) while deleting the addition we do not find any infirmity in the order of the CIT(A). Accordingly we uphold the same and the ground raised by the revenue is dismissed.

9. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 10.10.2019.

Sd/-

**(BHAVNESH SAINI)**  
**JUDICIAL MEMBER**

Sd/-

**(R.K PANDA)**  
**ACCOUNTANT MEMBER**

\*Neha\*

Date:- 10.10.2019

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	10.10.2019
Date on which the typed draft is placed before the dictating Member	10.10.2019
Date on which the approved draft comes to the Sr.PS/PS	10.10.2019
Date on which the fair order is placed before the Dictating Member for Pronouncement	10.10.2019
Date on which the fair order comes back to the Sr. PS/ PS	10.10.2019
Date on which the final order is uploaded on the website of ITAT	10.10.2019
Date on which the file goes to the Bench Clerk	10.10.2019
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	