

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD BENCH

**Before: Shri Rajpal Yadav, Judicial Member
And Shri Amarjit Singh, Accountant Member**

**ITA No. 685/Ahd/2018
Assessment Year 2014-15**

Rajena Agro Products Pvt. Ltd. At Post Sedrana, Tal: Siddhpur, Dist: Patan, Gujarat, 384151 PAN: AAACR9961Q (Appellant)	Vs	The Dy. CIT, Room No. 101/4, Chinmay Corporate House, Patan, Deesa Highway, Patan, Gujarat-384265, (Respondent)
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**Revenue by: Shri Mudit Nagpal, Sr. D.R.
Assessee by: Shri Satyapal K. Sadhwani, A.R.**

Date of hearing : 03-10-2019
Date of pronouncement : 21-10-2019

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2014-15, arises from order of the CIT(A), Gandhinagar, Ahmedabad dated 26-02-2018, in proceedings under section 143(3) of the Income Tax Act, 1961; in short the Act.

2. The assessee has raised following grounds of appeal:-

"1. The learned CIT (A) is unjustified & erred in law by confirming addition of Rs.10,41,320/- made by AO, as excess Vat refund received. Addition is contrary to material available on record & made without affording opportunity of being heard. The receipt was never in the nature of income & apparently erroneous.

2. *The learned CIT (A) is unjustified & erred in law by confirming disallowance of Rs.6,82,511/- out of various expenses made by AO in adhoc/lumpsum & arbitrary manner without giving any adverse findings, [i.e. Labour charge Re. 1.00 lakh, Machine repair maintenance Re. 1.00 lakh, foreign travel Re. 0.50 lakh, outward freight Re. 3.85 lakhs & building repair Re. 0.48 lakh]. The books of accounts of company are audited.”*

3. The fact in brief is that return of income declaring income of Rs. 58,08,013/- was filed on 29th Nov, 2014. The case was selected under scrutiny assessment. The assessment u/s. 143(3) of the act was completed on 22nd December, 2016. The remaining facts of the case are discussed while adjudicating the aforesaid two grounds of appeal as under:-

Ground No. 1 (Addition on account of Vat refund income not shown in return of income)

4. During the course of assessment, the assessing officer noticed that the assessee has shown Vat payable for assessment year 2013-14 outstanding at Rs. 79,78,941/-. The assessing officer has issued show cause notice to the assessee to explain why the same should not be disallowed and added to the total income of the assessee. The assessee responded that amount of Rs. 79,78,941/- was Vat refund received and the same has also been reflected in the bank statement. On perusal of the asset side of the balance sheet, the assessing officer has noticed that Vat tax refund was Rs. 69,37,621/-, however, the assessee has actually received refund to the amount of Rs. 79,78,941/-. In view of the above, the assessing officer observed that assessee has made wrong accounting entry of Vat tax refund, therefore, the difference of Rs. 10,41,320/- was added to the total income of the assessee as the amount of concealed Vat income.

5. The assessee has preferred appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee.

6. We have heard the rival contentions on this issue. With the assistance of ld. representatives, we have gone through the material on record and it is noticed that assessee company has credited the Vat refund of Rs. 79,78,941/- to the Vat payable account (F.Y. 2013-14) instead of adjusting the same against the duties and taxes (F.Y. 2013-14 Account) outstanding balance of Rs. 2,86,63,940/-. After adjusting the Vat refund received of Rs. 79,78,941/- credited outstanding balance in the receivable account shall be Rs. 20,68,999/-. Considering the forgoing facts, the addition is deleted and the appeal of the assessee is allowed on this issue.

Ground No. 2 (In confirming disallowance of Rs. 6,82,511/- out of various expenses)

7. During the course of assessment, the assessee was requested to furnish bills and vouchers in support of expenses incurred. In spite of giving repeated opportunities, the assessee has failed to produce bill/voucher for verification of the expenses. Consequently, the assessing officer has made disallowance out of the various expenses as under:-

<i>Expenses</i>	<i>Claimed</i>	<i>Proposed Disallowance</i>
<i>Labour Charge</i>	<i>Rs. 36,12,932/-</i>	<i>Rs. 1,00,000/-</i>
<i>Machinery repair and Maintenance</i>	<i>Rs. 10,94,508/-</i>	<i>Rs. 1,00,000/-</i>
<i>Foreign Travelling</i>	<i>Rs. 1,42,000/-</i>	<i>Rs. 50,000/-</i>
<i>Outward Freight</i>	<i>Total exp. Rs. 8,66,66,982/-, out of which Cash Rs. 38,49,538/-</i>	<i>Rs. 3,84,954/- @ 10%</i>
<i>Building repair</i>	<i>Rs. 4,75,564/-</i>	<i>Rs. 95,113 @ 20%</i>

8. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee.

9. We have heard the rival contentions and perused the material on record. It is noticed that during the course of assessment and appellate proceedings, the assessee has failed to produce the supporting bill and voucher in support of its claim of incurring various expenses as cited above. Under these circumstances, we observed that Id. CIT(A) is justified in sustaining disallowance of all the expenditure except foreign travelling expenses for want of proper verification on account of not furnishing the bill and voucher by the assessee. However, in the case of foreign travelling expenses, the assessing officer has disallowed expenses of Rs. 50,000/- out of 1,42,000/- and this disallowance is 30% of the total expenses. We observed that it will be reasonable to restrict the disallowance out of foreign travelling expenditure to the extent of 20% of such expenses which comes to 28,400/- as against Rs. 50,000/- disallowed by the assessing officer. Accordingly, this ground of appeal of the assessee is partly allowed.

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

Order pronounced in the open court on 21-10-2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad : Dated 21/10/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश कललम अषत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलअ अधकरण,
अहमदाबाद