

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC, "C" BENCH : BANGALORE**

BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER

ITA No.1774/Bang/2019
Assessment year : 2016-17

Sri Sharath Kumar, Prop : Srusti Associates, No.1553/3, 155/6, Hesaraghatta Main Road, Near Widia School Bus Stop, Opp. Krishna Cake Palace, Bengaluru-560 073. PAN – BGNPS 9428 J	Vs.	The Income-tax Officer, Ward-6(2)(5), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri Pranav Krishna, Advocate
Respondent by	:	Shri Ganesh R Ghale, Advocate Standing Counsel to Dept.

Date of hearing	:	07.11.2019
Date of Pronouncement	:	29.11.2019

ORDER

Per B.R Baskaran, Accountant Member

The assessee has filed this appeal challenging the order dated 23-05-2019 passed by Ld CIT(A)-6, Bengaluru and it relates to the assessment year 2016-17. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the addition of Rs.19.46 lakhs made by the AO, being the difference between the turnover reported by the assessee in Return of income and the turnover shown in Form No.26AS.

2. The assessee is a contractor supplying labour/manpower and also undertakes garden maintenance etc. In the return of income, the assessee declared turnover of Rs.1,73,37,439/-. The AO noticed that the turnover shown in Form No.26AS was Rs.1,96,75,871/-. Before AO, the assessee submitted that the difference in turnover represented PF/ESI collections made from his clients and those items were not taken as assessee's turnover. The AO noticed that the assessee has debited its profit and loss account with Rs.2,53,339/- towards ESI and Rs.14,52,337/- towards EPF. Further, a sum of Rs.22,24,598/- was shown as liability. Accordingly, the AO recast the profit and loss account and arrived at a difference of Rs.19,46,117/- in Net profit. The AO added the above said sum of Rs.19,46,117/- to the total income of the assessee. The Ld CIT(A) also confirmed the same.

3. Before me, the ld A.R submitted the break-up details of ESI and EPF as under:-

Particulars	ESI	EPF
Employer Contribution	6,54,958	16,83,474
Employee contribution	2,53,339	14,52,337

The Ld A.R submitted that the amount of Rs.2,53,339/- and Rs.14,52,337/- represent salary cost of the assessee and the same was shown separately in the profit and loss account. He submitted that the difference between the turnover shown in P & L account and Form 26AS is Rs.23,38,432/- and the same represents Employer contribution shown above, i.e., Rs.6,54,958/- (+) Rs.16,83,474 = Rs.23,38,432/-. He further submitted that the AO has considered expenditure of Rs.1,49,75,201/- while recasting the

profit and loss account, while the actual expenditure claimed by the assessee was Rs.1,66,92,378/-. Accordingly he submitted that there is no difference as presumed by the tax authorities and accordingly prayed for deletion of the same.

4. On the contrary, the Ld D.R submitted that the assessee has failed to offer proper explanations and hence the Ld CIT(A) was constrained to confirm the addition.

5. Having heard rival submissions, I am of the view that the difference in turnover shown in Profit and Loss account and Form No.26AS, which was the basis of making the impugned addition, needs to be reconciled. The assessee has submitted that the Principals have included the contribution to PF and ESI in the turnover, while the assessee has not included the same. Thus, there appears to be merit in the submission of the assessee that the difference in turnover is a matter requiring reconciliation. Before me, the assessee has reconciled the difference, but the same was by way of written submissions. No supporting material was placed. Accordingly, I am of the view, this matter requires fresh examination at the end of AO by duly considering the books of accounts, copies of invoices etc. Accordingly, I set aside the order passed by Ld CIT(A) and restore this issue to the file of the AO for examining this issue afresh. I also direct the AO to prepare a reconciliation statement along with supporting materials and furnish them to the AO. The assessing officer, after examining the materials, may take appropriate decision in accordance with law.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on **29th November, 2019.**

**Sd/-
(B.R Baskaran)
Accountant Member**

Bangalore,
Dated, the 29th November, 2019.

/Vms/

Copy to:

1. Appellant (s) / Cross Objector(s)
2. Respondent(s)
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore