

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

BEFORE SHRI C.M. GARG, JM & SHRI L.P. SAHU, AM

आयकर अपील सं./ITA No.84/CTK/2019

(निर्धारण वर्ष / Assessment Year :2010-2011)

Shree Nanak Sai & Sons, Through partner- Shri Pradeep Kumar Agarwal, C/o-T.K.Dutta, R-14, Civil Township, Rourkela-769004	Vs.	ACIT, Rourkela Circle, Rourkela
स्थायी लेखा सं./PAN No. : ABIFS 1791 D		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Tushar Dutta, AR
राजस्व की ओर से /Revenue by	:	Shri J.K.Lenka, DR
सुनवाई की तारीख / Date of Hearing	:	25/11/2019
घोषणा की तारीख/Date of Pronouncement	:	26/11/2019

आदेश / ORDER

Per L.P.Sahu, AM:

This is an appeal filed by the assessee against the order of CIT(A), Sambalpur, dated 04.07.2017 for the assessment year 2010-2011 on the sole ground regarding confirmation of addition of Rs.13,77,935/- made by the AO on account of differential in gross receipts of sundry debtors ledger balance of M/s Adhunik Metaliks Ltd. & gross receipt of audited profit loss account.

2. Brief facts of the case are that the assessee is a partnership firm filed its return of income on 14.10.2010 declaring total income of Rs.21.45.990/-. The case was selected for scrutiny and statutory

notices were issued to the assessee. During the course of assessment proceedings, the AO noticed that for preceding assessment year 2009-2010 was under scrutiny and there was a difference in gross receipts as shown by the assessee in his profit and loss account and Form 16 obtained from Adhunik Metaliks Ltd. and the same was reconciled by the assessee that the gross receipts as per profit and loss account has been shown after deducting the service tax amount. Accordingly, the AO construed that the differential in gross receipt at Rs.51,14,093/- is inclusive of the service tax payable amount of Rs.37,36,158/-. The AO further noted that the assessee failed to furnish any reconciliation statement or reply, accordingly, he added the differential in gross receipt at Rs.13,77,935/- to the total income of the assessee as all the expenses have already been claimed by the assessee in its profit and loss account.

3. Feeling aggrieved from the assessment order, the assessee appealed before the CIT(A) and the CIT(A) held that the AO has rightly made addition regarding differential amount which could not be reconciled by the assessee either before the AO or in the appellate proceeding.

4. Aggrieved from the order of CIT(A), the assessee has filed appeal before the Income Tax Appellate Tribunal.

5. Ld. AR submitted that the AO was not justified to make addition. Ld.AR referred to the Form No.26AS and submitted that there was no difference between the assessee company and Adhunik Metaliks Ltd. Accordingly, ld. AR requested that if a change is given in the interest of justice to represent before the AO, the assessee would be able to reconcile the same.

6. On the other hand, ld. DR relied on the orders of authorities below and objected the request of the assessee. Ld. DR further submitted that the assessee was unable to reconcile before both the authorities below, therefore, the order of the CIT(A) should be restored.

7. After hearing both the sides and perusing the entire material available on record, we find that before us ld. AR of the assessee submitted vendor account statement for the impugned year as well as Form No.26AS but he could not produce any reconciliation. In the vendor account statement filed before us, we observe that more transactions are reflecting but the assessee has not produced the reconciliation statement in regard to the disputed amount. Looking to the facts and circumstances of the case and in the interest of justice and considering the request of ld. AR of the assessee, we remit this matter to the file of AO to decide the case and the assessee is directed to produce the required documents before the AO. Needless to say, a

reasonable opportunity of being heard be given to the assessee. The assessee is directed not to seek any unnecessary adjournment. Accordingly, the sole ground raised by the assessee is allowed for statistical purposes.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 26/11/2019.

Sd/-
(C.M.GARG)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(L.P.SAHU)

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 26/11/2019

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
Shree Nanak Sai & Sons,
Through partner-
Shri Pradeep Kumar Agarwal,
C/o-T.K.Dutta, R-14,
Civil Township, Rourkela-769004
2. प्रत्यर्थी / The Respondent-
ACIT, Rourkela Circle, Rourkela
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT,
Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack