

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

ITA No.243/PUN/2015

निर्धारण वर्ष / Assessment Year : 2010-11

M/s. B.M. Chapalkar & Sons, 26, Dehbanoo Complex, Nashik Pune Road, Nashik Road, Nashik 422 101 PAN : AADFB5084C	Vs.	ACIT, Circle-1, Nashik
Appellant		Respondent

Appellant by Shri P.M. Shingte  
Respondent by Shri Ajay Dhoke

Date of hearing 10-12-2019  
Date of pronouncement 16-12-2019

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order dated 09-02-2015 passed by the CIT(A)-1, Nashik in relation to the assessment year 2010-11.

2. Briefly, stated, the facts of the case are that the assessee was subjected to survey action u/s.133A of the Income-tax Act, 1961 (hereinafter also called 'the Act') on 06-08-2009. During the course of such survey proceedings, statements of the partner and

Accountant of the assessee firm were recorded. The partner of the firm, Mr. Sandip Bhima Chapalkar, disclosed additional income of Rs.45.00 lakh for the assessment year under consideration, in addition to surrender of Rs.30.00 lakh for the assessment year 2009-10. Such income of Rs.45.00 lakh was included in the total income at the time of filing the return. During the course of assessment proceedings, the Assessing Officer (AO) observed that the documents impounded during the course of survey transpired that some of the expenses incurred in the name of sub-contractors were not genuine. The AO caused enquiries to be conducted by means of notice u/s.133(6) to the sub-contractors for carting and sublet work. No response came from such parties. The assessee was also confronted with the situation. Since the assessee could not furnish confirmation letters from the sub-contractors/carting agents, the AO made addition of Rs.1,52,05,180/- on this score. Apart from that, the AO observed that statement of the partner of the assessee firm divulged that the assessee inflated expenditure under the guise of payment to sub-contractors. The assessee admitted to have made such bogus payments during the year under consideration amounting to Rs.19,99,920 and Rs.15,65,500/- to the

sublet contractors, namely, Mr. Popat Hake and Mr. Nurey Aslam Ansari. Addition of Rs.35,65,420/- was made on this score. Further, the assessee was found to have recorded hawala purchases amounting to Rs.27,30,251/-. Addition for this sum was also made by the AO. In the first appeal, the assessee contended that it made a surrender of Rs.45.00 lakh which ought to have been taken into consideration while making the additions. It was also submitted that the assessee had necessary evidence to show that all the transactions were genuine. The Id. CIT(A) sustained the first addition to the extent of Rs.81,41,143/- as against Rs.1.52 crore made by the AO. The other additions of Rs.35.65 lakh and Rs.27.30 lakh were confirmed in the first appeal. The assessee is aggrieved by the sustenance of these additions.

3. Having heard the rival submissions and perused the relevant material on record, it is noted that the addition similar to Rs.1.52 crore and odd was made by the AO in his order for the assessment year 2009-10. When the matter came up for consideration, the Tribunal vide its order dated 25-07-2014 in ITA No.1490/PUN/2012 restored the addition in respect of sublet work and carting charges with certain directions to the file of AO for a

fresh decision. There is no qualitative difference between the facts of the addition of Rs.1.52 crore made by the AO which got reduced in the first appeal to the tune of Rs.81,41,143/- and the other addition of Rs.35.65 lakh which was again made in similar circumstances. Though the factual position in respect of third addition of Rs.27.30 lakh towards bogus purchases is somewhat different in the factual panorama, but the ld. AR submitted that one more opportunity be granted to the assessee to put forth the genuineness of the transactions. Respectfully following the order passed by the Tribunal for the immediately preceding assessment year and the other relevant factors as noted above, we are of the considered opinion that the ends of justice would meet adequately if the impugned order on this score is set-aside and the matter is restored to the file of AO. We order accordingly and direct the AO to decide the fate of these three additions afresh as per law in consonance with the directions given by the Tribunal in its order for the immediately preceding assessment year. Needless to say, the assessee will be allowed an opportunity of hearing in such fresh proceedings.

4. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 16<sup>th</sup>  
December, 2019.

Sd/-  
**(S.S. VISWANETHRA RAVI)**  
**JUDICIAL MEMBER**

Sd/-  
**(R.S.SYAL)**  
**VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 16<sup>th</sup> December, 2019  
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-1, Nashik
4. The CIT -1, Nashik
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे  
“बी” / DR ‘B’, ITAT, Pune
6. गार्ड फाईल / Guard file

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	10-12-2019	Sr.PS
2.	Draft placed before author	11-12-2019	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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