

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

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

आयकर अपील सं. / ITA No.115/PUN/2017
निर्धारण वर्ष / Assessment Year : 2013-14

M/s. Bhima Riddhi Infotainment Pvt. Ltd.,
446, Kailash Tower, 3rd Floor,
Station Road, Kolhapur-416001

PAN : AADCB3933D

.....अपीलार्थी / Appellant

बनाम / V/s.

Assistant Commissioner of Income Tax,
Circle – 2, Kolhapur

.....प्रत्यर्थी / Respondent

Assessee by : Shri Nikhil Pathak
Revenue by : Shri Hoshang B. Irani

सुनवाई की तारीख / Date of Hearing : 09-12-2019

घोषणा की तारीख / Date of Pronouncement : 19-12-2019

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 24-10-2016 passed by the Commissioner of Income Tax (Appeals)-2, Kolhapur ['CIT(A)'] for assessment year 2013-14.

2. The assessee raised three grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) justified in confirming the addition made by the AO at 15% on account of operation and distribution charges in the facts and circumstances of the case.

3. Heard both parties and perused the materials available on record. According to AO that the assessee is a private limited company carries on the business of providing TV cable services, internet and broadband services through cable and conducts its business under the name and style of "M/s. Bhima Riddhi Infotainment Pvt. Ltd." The AO on examination of details found a payment of Rs.1,20,00,000/- made to M/s. Bhima Riddhi Cable Network for operations and distribution charges is excessive, taking into consideration the activity of operations and distribution work done. Further, according to him the assessee did not offer any explanation in the assessment proceedings and disallowed Rs.18,00,000/- (15% of Rs.1,20,00,000/-) and added the same to the total income of the assessee. The CIT(A) confirmed the order of AO taking into consideration the similar disallowance which was accepted by the assessee involving the immediate preceding years.

4. Shri Nikhil Pathak, the ld. AR submitted that M/s. Bhima Riddhi Cable Network is a sister concern of assessee and accounted the said receipt of Rs.1,20,00,000/- in its accounts and offered to tax. He argued when the said sum was accounted and offered to tax by the sister concern of assessee there cannot be addition in the hands of assessee and referred to profit and loss account at page No. 55 of the paper book and submitted that the assessee has shown the payment made to its sister concern under

the head "Other Expenses" and the assessee rightly incurred said expenses for its business purposes and referred to the details of other expenses at page No. 68 of the paper book. He submits that the assessee paid said amount under agreement for its contract services in distribution and operation charges. Admittedly, we find that there was no dispute accepting the disallowance made in immediate preceding years 2011-12 and 2012-13 @ 2.5% and 15%, respectively. The only contention of ld. AR is that there cannot be addition in the hands of assessee by referring to page No. 73 of the paper book that M/s. Bhima Riddhi Cable Network which is a sister concern of the assessee is accounted the said receipt and offered to tax. Having considering the facts and circumstances of the case and the order of CIT(A) there was no explanation offered by the assessee before the AO and CIT(A) regarding the above said payment by evidences. Before us, no evidence whatsoever produced except to say that when the recipient accounted the receipt from the assessee in its account and offered to tax, in our opinion, is not acceptable but however we restrict the disallowance @ 10% of Rs.1,20,00,000/- which is reasonable and therefore, the order of CIT(A) is set aside. Thus, the AO is directed to give effect as indicated above. The ground Nos. 1 to 3 raised by the assessee are partly allowed.

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

Order pronounced in the open court on 19th December, 2019.

Sd/-
(R.S. Syal)
VICE PRESIDENT

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 19th December, 2019

RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-2, Kolhapur
4. The Pr. Commissioner of Income Tax-2, Kolhapur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune