

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. N.K.CHOUDHRY, JUDICIAL MEMBER AND
DR. A.L.SAINI, ACCOUNTANT MEMBER

ITA No.29/Asr/2018
Assessment Year: 2014-15

M/s. Construction Engineers,
54-IE, Baghat Barzullah,
Srinagar.

Vs.

Asst. CIT,
Circle-3, Srinagar.

[PAN:AABFC 7715P]

(Appellant)

(Respondent)

Appellant by: Sh. M.A. Mir, (Ld. Cost Accountant)
Respondent by: Sh. Charan Dass (Ld. DR)

Date of hearing: 28.11.2019
Date of pronouncement: 30.12.2019

ORDER

PER N.K.CHOUDHRY, JM:

This appeal has been preferred by the assessee against the impugned order dated 28.11.2017 passed by the Ld. CIT(A)-Jammu, u/s 250(6) of the Income Tax Act, 1961 (hereinafter called as 'the Act').

2. In the instant case, the assessee has challenged the only addition of Rs.59,93,900/- qua sub-contract works by applying the provisions of Sec.40(a)(ia) of the Act. The assessee has claimed the expenditure on account of sub-contract works to the tune of

Rs.7,83,46,901/- and made a payment of Rs.59,93,900/- to sub-contractors without deducting the TDS. Consequently, the Assessing Officer disallowed Rs.59,93,900 u/s 40(a)(ia), against which the assessee has preferred first appeal before the Ld.CIT(A) who vide impugned order, confirmed the disallowance of Rs.59,93,900/- on the ground that *in the written submissions filed by the appellant, the ground No.1 was not pressed.*

3. The assessee preferred the instant appeal against the affirmation of said disallowance and honestly admitted its mistake, in not pressing the ground No.1 in written submissions, due to inadvertence and misguidance and prayed for remittance of the issue to the file of the Ld. CIT(A) for decision afresh. On the other hand, the Ld. DR, refuted the claim of the assessee and raised the objection.

4. Having considered the submissions of the parties and the issue raised and honest admission of bonafide mistake by the assessee. As the Ld. CIT(A) did not adjudicate the issue under hand on merit on the ground that the assessee could not pressed the ground No.1 in its written submission, therefore considering the peculiar facts and circumstances and for the end of litigation and just decision of the case, we are inclined to allow the appeal of the assessee but subject to deposit of Rs.10,000/- in the Income Tax Department within one month from the receipt of this order. Consequently, the issue is remanded to the file of the Ld. CIT(A) for decision afresh, suffice to say while affording proper and reasonable opportunities of being heard to the assessee.

5. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 30/12/2019.

Sd/-

(DR. A.L.SAINI)
ACCOUNTANT MEMBER

Sd/-

(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated: 30/12/2019.

/PK/ Ps.

Copy forwarded to:

1. The Appellant
2. The Respondent
3. The CIT
4. Then CIT(Appeals)
5. SR DR, I.T.A.T. Amritsar
6. Guard File

True Copy

By Order