



ITA No.3995/Mum/2017
M/s. N.H. Harsora Private Limited
Assessment Year :2012-13

आयकर अपीलीय अधिकरण “बी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI

माननीय श्री महावीर सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.3995/Mum/2017
(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s. N.H. Harsora Private Limited 1-D, Harsora Centre Dr. Hakim Wadi Besides Super Cinema, Grant Road, Mumbai-400 007.	बनाम/ Vs.	Income Tax Officer-5(2)(1) Aaykar Bhavan, 5 th Floor M.K. Road Mumbai- 400 020.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAACN-1875-B		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Sanjay R. Parikh-Ld. AR
Revenue by	:	Ms. Kavita P. Kaushik-Ld.DR

सुनवाई की तारीख/ Date of Hearing	:	14/01/2020
घोषणा की तारीख / Date of Pronouncement	:	14/01/2020

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2012-13 contest the order of Ld. Commissioner of Income-Tax (Appeals)-10, Mumbai, [in short referred to as ‘CIT(A)’], Appeal No. CIT(A)-10/ITO-5(2)(1)/324/2015-16 dated 17/02/2017 on following grounds of appeal: -



A) Addition on account of cash deposit - Rs. 12,92,200/-

1) The learned Commissioner of Income Tax (Appeals) - 10 (Mumbai) [CIT-(A)] erred on facts and in law in confirming the order of the Income Tax Officer 5(2)(1), Mumbai (AO) making an addition of Rs. 12,92,200/- on account of cash deposited towards tenanted building scrap sale, in the hands of the appellant.

2) The appellant prays that the addition of Rs. 12,92,200/- made by the AO on account of cash deposited towards tenanted building scrap sale and as confirmed by the CIT(A), may be deleted.

B) Disallowance u/s. 14A-Rs. 97,470/-

3) The learned CIT(A) erred on facts and in law in confirming the order of the AO making a disallowance u/s. 14A read with Rule 8D(2) (iii) of Rs. 97,470/-.

4) The appellant prays that the addition of Rs. 97,470/- u/s, 14A read with Rule 8D(2)(iii) made by the AO and as confirmed by the CIT(A), may be deleted.

2.1 Facts on record would reveal that the assessee being resident corporate assessee stated to be engaged in manufacturing was assessed for year under consideration u/s. 143(3) on 26/03/2015 wherein the income of the assessee was determined at Rs.119.94 Lacs, after certain additions / adjustments as against returned income of Rs.11.57 Lacs filed by the assessee on 17/05/2013. As evident from grounds of appeal, the issues that arises for our consideration are i) Addition on account of cash deposit; (ii) Disallowance u/s 14A.

2.2 We have carefully heard the rival submissions and perused relevant material on record. Our adjudication to both the issues would be as given in succeeding paragraphs.

3. Addition on account of Cash Deposit

As per information received by the department, it transpired that the assessee deposited aggregate sum of Rs.86.31 Lacs in two bank accounts maintained with Bank of India and HDFC Bank. Upon verification of cash book, the actual cash deposit worked out to be Rs.74.26 Lacs. The assessee submitted that it received cash on various dates from various parties and accordingly, the assessee was directed to



explain the nature of transactions, identity and creditworthiness of these parties. However, in the absence of sufficient documentary evidences, Ld. AO added the amount of Rs.74.26 Lacs to the income of the assessee.

Upon further appeal, Ld. CIT(A) eliminated amount already offered by assessee as income as per Schedule-22, double entries, advances recovered in cash and cash received on sale of vehicle and generator. However, the amount of Rs.12,92,200/- stated to be received on sale of tenanted building scrap was not accepted since the assessee changed its stand while explaining the said item and the assessee also failed to substantiate the same with any evidences. Aggrieved, the assessee is under further appeal before us.

Before us, Ld. AR placed on record ledger extracts & copy of invoices raised on account of scarp sale to submit that the said cash was received as advance from various parties on account of sale of scrap in subsequent years. On the strength of these documents, Ld. AR pleaded for acceptance of receipts as arising out of sale of scrap in subsequent periods. *Au Contraire*, Ld. DR submitted that the assessee changed version before Ld. AO and Ld. CIT(A) and further, these documents / explanations were without any verification.

Upon due consideration, the bench formed an opinion that in the interest of justice and in the light of documentary evidences as placed on record, the assessee deserve another opportunity to explain the source of stated cash deposit. Therefore, this issue stand remitted back to the file of Ld.AO for re-adjudication in the light of assessee's submissions as well as documentary evidences with a direction to the assessee to



substantiate the said cash deposit. This ground stand allowed for statistical purposes.

4. Disallowance u/s 14A

The assessee earned exempt dividend income of Rs.1,925/- but did not offer any suo-moto disallowance against the same. The Ld. AO, applying Rule 8D, computed aggregate disallowance of Rs.3.37 Lacs which comprised-off of interest disallowance u/r 8D(2)(ii) for Rs.2.39 Lacs and expense disallowance u/r 8D(2)(iii) for Rs.0.97 Lacs.

The Ld. CIT(A) deleted interest disallowance since own funds were used to make the said investments. However, expense disallowance of Rs.0.97 Lacs was confirmed, against which the assessee is under further appeal before us.

It is admitted position that the assessee has earned exempt income of Rs.1,925/- only and therefore, we direct Ld.AO to restrict the disallowance to that extent since expenses disallowance, in our considered opinion, could not exceed exempt income earned by the assessee during the year. This ground stand partly allowed.

5. The appeal stands partly allowed.

Order pronounced in the open court on 14th January, 2020.

Sd/-

(Mahavir Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 14/01/2020
Sr.PS, Jaisy Varghese



ITA No.3995/Mum/2017
M/s. N.H. Harsora Private Limited
Assessment Year :2012-13

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**