

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

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.377/Hyd/2019		
Assessment Year: 2015-16		
Income Tax Officer, Ward-3(2), Hyderabad.	Vs.	M/s. Silicon Business Solutions Private Limited, Hyderabad. PAN: AATCS 8190 F
(Appellant)		(Respondent)
Assessee by:	Sri Kiran Katta	
Revenue by:	Sri Kishore Kumar Kabra, AR	
Date of hearing:	23/01/2020	
Date of pronouncement:	10/06/2020	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the Revenue against the order of the Ld. CIT(A)-3, Hyderabad in appeal ITA No. 10186/ITO-3(2)/Hyd/CIT(A)-2/2017-18, dated 15/01/2019 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY 2015-16.

2. The Revenue has raised several grounds in its appeal however, the crux of the issue is that the Revenue is aggrieved by the order of the Ld. CIT (A) who had allowed the appeal of the assessee without any basis when the Ld. AO had made addition by rejecting the books of account of the assessee and made addition by disallowing 20% of several

expenses for want of evidence since the assessee had failed to produce bill and vouchers for verification during the course of assessment as well as appellate proceedings.

3. The brief facts of the case are that the assessee is a limited company engaged in the business of trading, computer hardware and software filed its return of income for the AY 2015-16 on 24/09/2015 declaring NIL income. Subsequently, the case was taken up for scrutiny and the assessment was completed on 30/12/2017 U/s. 143(3) of the Act wherein the Ld. AO disallowed 20% of the aggregate expenditure of Rs. 1,71,87,537/- because for those expenditures the assessee had failed to produce bills and vouchers and further the assessee had not maintained properly its books of accounts.

4. On appeal, the Ld. CIT (A) deleted the addition made by the Ld. AO by observing as under:

“Para (XI) .....

*From the submissions made in appeal and the details filed during the course of appeal proceedings, it is seen that the appellant had filed various details vide letters dated 02-06-2016 and 20-11-2016 before the Assessing Officer itself. It is noted that the Assessing Officer while rejecting the books of account had not mentioned any defects in the books of account. The appellant pointed out in appeal that the appellant's books of account were subjected to audit not only under the provisions of companies Act but also under the provisions of the Income Tax Act. The appellant contended that the auditors in their respective reports had not noticed any adverse features. It is apparent that the addition was made without duly considering the audited financial statements, bank statements, submissions made in the assessment. The details filed before the Assessing Officer (copy of which were furnished in appeal) also makes it apparent that the appellant had furnished the details in assessment and the additions made are not warranted. The appellant further stated that during the scrutiny assessment for AY 2008-09, 2009-10, 2010-11, 2011-12 and 2016-17 the assessment was completed accepting the returned*

*income. Considering the facts and circumstances of the instant case, Ground no.5 in appeal is allowed.”*

5. Before us, the Ld. DR submitted that the Ld. CIT (A) had erroneously deleted the addition made by the Ld. AO when the assessee had failed to produce bills and vouchers to prove the expenditure incurred to be genuine. The Ld. DR further argued stating that the assessee had not maintained proper books of accounts and yet the Ld. CIT (A) had granted relief to the assessee without examining the books of accounts, and bills & vouchers. It was therefore pleaded that the order of the Ld. CIT (A) may be set-aside and order of the Ld. AO may be reinstated. On the other hand, the Ld. AR submitted that the assessee has maintained proper books of accounts and also maintained proper bills & vouchers. He further submitted that one more opportunity may be provided to produce the same before the Ld. AO.

6. We have heard the rival submissions and carefully perused the materials on record. The Ld. AO has categorically mentioned in his order that the assessee had not maintained his books of accounts or produced supporting documents for certain expenditure incurred such as bills & vouchers. The Ld. AO further observed that for certain expenditure incurred by the assessee, tax was also not deducted at source by the assessee. Further, on perusing the order of the Ld. CIT (A), the relevant portion of which is extracted hereinabove, it appears that neither the Ld. CIT (A) has properly examined the books of accounts of the assessee

nor verified the bills & vouchers with respect to certain expenditures incurred by the assessee. Therefore, we do not find much strength in the order of the Ld. CIT (A) for having deleted the addition made by the Ld. AO. Further we also find that the Ld. AO on the earlier occasion had provided only one opportunity of hearing to the assessee i.e., on 20/06/2017 before framing his order. Furthermore, the assessee has also agitated before the Ld. CIT (A) that the Ld. AO had not provided proper opportunity to the assessee of being heard and the Ld. CIT (A) after examining the issue had categorically made a finding in favour of the assessee. Keeping in view of all these facts and the submission of the Ld. AR that the assessee had maintained proper books of accounts, and maintained proper bills & vouchers and his undertaking to produce the same before the Ld. Revenue Authorities if an opportunity is provide once again, in the interest of justice for both the parties we find it appropriate to send the matter back to the file of the Ld. AO for de novo consideration. Accordingly, we hereby remit the case of the assessee back to the file of the Ld. AO with directions to admit and examine any evidence produced by the assessee and thereafter decide the issues judiciously. We also hereby direct the assessee to promptly co-operate before the Ld. Revenue Authorities in their proceedings failing which they shall be at liberty to pass appropriate order in accordance with law and merit based on the materials before them.

7. Before parting, it is worthwhile to mention that this order is pronounced after 90 days of hearing the appeal which is though against the usual norms, we find it appropriate, taking into consideration of the extra-ordinary situation in the light of the lock-down due to Covid-19 pandemic. While doing so, we have relied in the decision of Mumbai Bench of the Tribunal in the case of DCIT vs. JSW Ltd. In ITA No.6264/M/2018 and 6103/M/2018 for AY 2013-14 order dated 14th May, 2020.

8. In the result, appeal of the Revenue is allowed for statistical purposes as indicated herein above.

Pronounced in the open Court on 10<sup>th</sup> June, 2020.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 10<sup>th</sup> June, 2020.

*OKK*

Copy to:-

- 1) M/s. Silicon Business Solutions Private Limited, 4-1-938/31-35, Sudha House, Tilak Road, Abids, Hyderabad.
- 2) Income Tax Officer, Ward-3(2), R. No. 707, 7<sup>th</sup> Floor, Signature Towers, Opp. Botanical Gardens, Kondapur, Hyderabad.
- 3) The CIT (A)-3, Hyderabad.
- 4) The Pr. CIT-3, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File