



IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

ITA no.6933/Mum./2018
(Assessment Year : 2013-14)

Anazeal Analyticals & Research Pvt. Ltd.
C-404, TTC Industrial Area
MIDC, Village Pawane
Navi Mumbai 400 705
PAN-AADCA6024E

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-4(1)(2), Mumbai

..... Respondent

Assessee by : Ms. Dinkle Hariya
Revenue by : Shri Michael Jerald

Date of Hearing - 12.02.2020

Date of Order - 13.03.2020

ORDER

PER SAKTIJIT DEY. J.M.

This appeal has been filed by the assessee challenging the order dated 24th September 2018, passed by the learned Commissioner of Income Tax (Appeals)-9, Mumbai, for the assessment year 2013-14.

2. Though, the assessee has raised several grounds including violation of rules of natural justice, however, the core issue relates to the addition of ₹ 59,50,867, made on account of mismatch between

the income credited to the Profit & Loss account and income as reflected in Form no.26AS.

3. Brief facts are, the assessee, a resident company, is a Government approved clinical testing laboratory and mainly carries out testing of drug and pharmaceutical raw material and finished products as per Indian and international norms. For the assessment year under dispute, the assessee filed its return of income on 29th September 2013, declaring total income of ₹ 68,17,070. During the assessment proceedings, the Assessing Officer noticing a mismatch between the income credited to the Profit & Loss account and as reflected in Form no.26AS, called upon the assessee to reconcile the difference. Further, it was brought to the notice of the assessee that the concerned parties have already claimed the payment made to the assessee as expenditure and have also deducted tax at source. In response, it was submitted by the assessee that the difference in income shown and as reflected in Form no.26AS, was due to different accounting method followed by the payers and the assessee. It was submitted, while the assessee is offering income on accrual basis, the payers are claiming expenditure on actual payment basis. The Assessing Officer, however, was not convinced with the explanation of the assessee and added back the amount of ₹ 59,50,867, to the income of the assessee.

4. Learned Commissioner (Appeals) also sustained the addition made by the Assessing Officer.

5. The learned Authorised Representative submitted, before the Assessing Officer as well as the first appellate authority, the assessee has furnished statements reconciling the difference between the income credited to the Profit & Loss account and income shown in Form no.26AS. She submitted, part of the income reflected in Form no.26AS, has already been offered to tax by the assessee in the assessment year 2012-13, as the assessee is offering income on accrual basis. She submitted, since the payers are claiming expenditure on actual payment basis, the mismatch has arisen as Form no.26AS is on the basis of the TDS. She submitted, without conducting any enquiry, the Assessing Officer has made the addition which has been confirmed by learned Commissioner (Appeals). Thus, she submitted, the issue may be restored back to the Assessing Officer for factual verification and necessary enquiry and corresponding TDS credit should be allowed to the assessee.

6. Though, learned Departmental Representative relied upon the observations of the Assessing Officer and learned Commissioner (Appeals), however, he submitted that the issue may be verified by the Assessing Officer.

7. We have considered rival submissions and perused the material on record. Undisputedly, the addition which has been disputed before us is on account of mismatch in the income offered by the assessee and the income reflected in Form no.26AS. To reconcile the difference, the assessee has submitted that a part of the payment as reflected in Form no.26AS, was offered as income on accrual basis in the preceding assessment year. As it appears, the aforesaid claim of the assessee has not at all been verified either by the Assessing Officer or by learned Commissioner (Appeals). Even, to cross verify assessee's claim, no enquiry has been conducted with the payers. Therefore, in our considered opinion, the issue requires to be restored back to the Assessing Officer for fresh adjudication after proper enquiry of assessee's claim that part of the income has already been offered in the preceding assessment year. In case, any amount which still remains to be reconciled, the same may be treated as income of the assessee. However, assessee should get benefit of corresponding TDS as per law. With the aforesaid observations, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 13.03.2020

Sd/-
G. MANJUNATHA
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 13.03.2020

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai