

IN THE INCOME TAX APPELLATE TRIBUNAL

RANCHI, "E" COURT, AT KOLKATA

BEFORE SHRI J. SUDHAKAR REDDY, AM & SHRI S.S. GODARA, JM

आयकरअपीलसं./ITA No.13/Ran/2019

(निर्धारणवर्ष / Assessment Year:2014-15)

M/s Trig Security and Intelligence Pvt. Ltd.	Vs.	ITO, Ward-3(2), Jamshedpur
1st Floor, Jyoti Tower, Road No. 2, Contractors Area, Bistupur, Jamshedpur		
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AACCT 5945 J		
(Appellant)	..	(Respondent)

Appellant by : Shri Devesh Poddar, Advocate

Respondent by : Shri N. S. Khalko, JCIT

सुनवाईकीतारीख/ Date of Hearing : 02/09/2020

घोषणाकीतारीख/Date of Pronouncement : 23/09/2020

आदेश / ORDER

Per Shri S. S. GODARA, JM:

The assessee's appeal for assessment year 2014-15 arises against the CIT(A)- Jamshedpur's order dated 23/06/2017, passed in case no148/JSR/2016-17 involving proceedings u/s 143(3) of the Income Tax Act, 1961 (in short the 'Act').

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance raised in the instant lis seeks to reverse both the learned lower authorities' action disallowing / adding alleged

service tax claimed at Rs. 7,30,708/- on account of non-payment thereof in the relevant previous year thereby invoking section 43B of the Act.

3. Learned counsel only pleads during the course of hearing before us is that the impugned service tax deduction component has nowhere been routed through its profit and loss account so as to be claimed as a revenue's item allowable for deduction. He then quoted this tribunal's co-ordinate bench decision of *M/s Vansun Erectors Pvt. Ltd. vs. ITO, Ward-17(3), Hyderabad* in ITA No. 732/Hyd/2018 for AY 2014-15 dated 15.02.2019, hon'ble Bombay high court's decision in *PCIT vs. Top Security Pvt. Ltd. (2018) 97 taxman.com 525* hon'ble Delhi high court decision in *CIT vs. Nobel and Hewitt India Pvt. Ltd. (2008) 305 ITR 324* Calcutta high court decision in *CIT vs. Associated Pigment Pvt. Ltd. (1993) 71 Taxman 244 (Cal)* to this effect. There is no rebuttal from Revenue side qua the above legal position. The fact also remains that neither of the lower authority has examined the assessee's profit & loss account to the above clinching effect. The very factual position continues before us as well since the assessee's profit and loss account does not form part of the case records. We therefore accept the assessee's foregoing sole grievances in principle and restore the issue back to the Assessing Officer for his necessary factual verification of the profit and loss account to this effect.

4. This assessee's appeal is allowed in above terms.

Order pronounced in the Court on 23.09.2020

Sd/-
(J.SUDHAKAR REDDY)
लेखासदस्य / ACCOUNTANT MEMBER

Sd/-
(S.S.GODARA)
न्यायिकसदस्य / JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक/ Date: 23/09/2020

SB, Sr.PS

Copy of the order forwarded to:

1. M/s Trig Security and Intelligence Pvt. Ltd.
2. ITO, Ward-3(2), Jamshedpur
3. C.I.T(A)-
4. C.I.T.- Ranchi
5. CIT(DR), Ranchi Bench, Ranchi .
6. Guard File.

True copy

By Order

Senior Private Secretary
ITAT, Kolkata Benches