

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH : BANGALORE

BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No.1167/Bang/2019

Assessment Year : 2011 – 12

Shri. N. R. Kumaraswamy, No.15, New 'D' Souza Layout, Hosakerehalli, BSK 3 rd Stage, Bengaluru – 560085. PAN : ALWPK 3713 D	Vs.	The Income Tax Officer, Ward-7(2)(5), Bengaluru.
APPELLANT		RESPONDENT
Assessee by	:	None
Revenue by	:	Smt. R. Premi, JCIT (DR)(ITAT), Bengaluru
Date of hearing	:	24.09.2020
Date of Pronouncement	:	09.10.2020

ORDER

PER ARUN KUMAR GARODIA, A. M.:

This appeal is filed by the assessee and the same is directed against the order of learned CIT(A)-7, Bengaluru, dated 25.03.2019, for Assessment Year 2011-12. The grounds raised by the assessee are as under:

Grounds of Appeal	Tax effect relating to each Ground of appeal (<i>see note below</i>)
1. The Learned Commissioner of Income Tax (Appeals) went wrong in holding that the reimbursement of amount by M/s. LM Wind Power Blades India (P) Ltd., towards supply of safety shoes and uniforms, did not figure in reconciliation filed to form 26AS for the assessment year 2011-12. Since the said reimbursement is already part of amounts received in the year, hence same was not part of reconciliation.	Rs.3,20,280/-
2. The Learned Commissioner of Income Tax (Appeals) failed to appreciate that the reconciliation statement is furnished in respect of values which are appearing in the 26AS and which are not accounted during the year in question. Values are accounted by the appellant on the basis of mercantile system i.e. as and when the invoice is raised and whereas the payer has made TDS on payment basis as reported in 26AS.	
3. The Appellant submits that the finding of the learned CIT(A) to the effect the sum of Rs.10,67,600/- has not been reconciled is opposed to the facts.	
4. The conclusion of the Learned CIT(A) that the sum of Rs.10,07,600/- is assessable as income for the assessment year 2011-12 is opposed to the facts and law and no such addition is warranted.	
5. The Learned CIT(A) erred in dismissing the grounds in regard to levy of interests u/s.234B & D of the Act.	
6. The appellant prays that this Hon'ble be pleased to permit the appellant to add, delete or modify any ground or grounds at the time of hearing.	

2. This appeal was earlier fixed for hearing on 24.06.2020. On this date, learned AR of the assessee moved an application for adjournment and on his request, the hearing was adjourned to 24.09.2020 and this date of hearing was intimated to the learned AR of the assessee. Thereafter, on 23.09.2020, Paper Book containing 79 pages was filed by learned AR of the assessee and along with Paper Book, a letter is also filed by learned AR of the assessee in which it is stated that the matter is listed for hearing on 24.09.2020 with "C" Bench and hence, it is seen that the AR of the assessee is very much aware about this date of hearing but in spite of this, none appeared on behalf of the assessee and there is no request for adjournment and therefore, the appeal of the assessee was heard ex-parte qua the assessee. Learned DR of the Revenue supported the order of CIT(A).

3. We have considered the submissions of learned DR of the Revenue and have gone through the Paper Book filed by learned AR of the assessee which contains the written submissions filed by the assessee before CIT(A) on pages 1 to 4 of the Paper Book and the reconciliation statement available on page 5 to 10 of the Paper Book. We find that as per the reconciliation statement available on page 5 of the Paper Book, the assessee has started with gross receipts as in Form 26AS/AIR information Rs.6,33,04,632/- and after reducing various amounts as per the detail given in the reconciliation, he has arrived to the amount of Rs.5,48,98,286/- and he has also shown that the gross receipts as per Income and Expenditure Account of the assessee is also almost same figure which is Rs.5,48,82,422/- having a difference of only Rs.15,864/- but as per the impugned order of learned CIT(A), he has not only confirmed the addition of Rs.15,864/- being the difference between these two amounts of Rs.5,48,98,286/- and Rs.5,48,82,422/- but he has also confirmed addition of Rs.10,07,597/-. This amount is regarding reimbursement of amounts towards supply of safety shoes and uniform noted in the reconciliation statement available on page 5 of the Paper Book. As per learned CIT(A), this difference of Rs.10,07,597/- could not be proper explained by learned AR of the assessee. Considering the facts of present case, we feel it proper that this issue

regarding the difference of Rs.10,23,461/- for which addition is confirmed by learned CIT(A) should be restored back to CIT(A) for a fresh decision and accordingly, we set aside the order of learned CIT(A) and restore the matter back to his file for a fresh decision with a direction that the assessee should produce further details regarding these two differences of Rs.10,07,597/- and Rs.15,864/-, total Rs.10,23,461/- before CIT(A) and after considering the same if the assessee files it before CIT(A), learned CIT(A) should decide this issue afresh but if the assessee does not file satisfactory reply before CIT(A) regarding these two differences then the addition may be confirmed again.

4. In the result, assessee's appeal is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(BEENA PILLAI)

Judicial Member

Bangalore,

Dated: 09.10.2020.

/NS/*

Sd/-

(A.K. GARODIA)

Accountant Member

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| 1. Appellants | 2. Respondent | 3. CIT |
| 4. CIT(A) | 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.