

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'A-SMC' BENCH : Hyderabad  
(Through Video Conference)**

**Before Smt. P. Madhavi Devi, Judicial Member**

**ITA No. 746/Hyd./2016  
Assessment Year: 2000-2001**

M/s. P.V. Vardhan Rao & Co.  
8-3-898, Sairam Estates  
Ameerpet  
Hyderabad

vs. ITO, Ward 4(4)  
Hyderabad

PAN: AA EFP3605L

**(Appellant)**

**(Respondent)**

**For Assessee:** Shri S. Rama Rao, A.R.

**For Revenue:** Sh. Subramanyam Tota, D.R.

**Date of Hearing** : 28/10/2020

**Date of Pronouncement** : 28/10/2020

**ORDER**

This is assessee's appeal against the order of Ld.CIT(A)-9, Hyderabad dated 29.02.2016 for A.Y. 2000-2001.

2. Brief facts of the case are that the assessee is a Partnership firm carrying on the business of civil contracts. It filed its return of income for the relevant A.Y. on 31.10.2000 admitting an income of Rs.1,98,670/- from the business of execution of civil contract works. The assessment was completed u/s 143(3) of the I.T.Act, 1961 on 24.03.2003 on a total income of Rs.87,84,000/- which included a net

profit addition of Rs.40,37,166/- by way of recasting the profit & loss account adopting the opening work in progress at Rs.18,10,450/-; and an addition of Rs.38,50,000/- u/s 68 of the I.T.Act, 1961. Subsequently it was noticed that there was a mistake in the assessment order. Therefore, an order u/s 154 of the I.T.Act, 1961 was passed on 10.06.2003 by assessing the income at Rs.69,91,322/-. Aggrieved, the assessee filed an appeal before the CIT(A) who granted partial relief to the assessee to the extent of Rs.67,92,652/- deleting additions made in the assessment. Aggrieved by the order of CIT(A), the department filed an appeal before the ITAT and the ITAT vide ITA 630/Hyd/2004 dated 05.06.2009 upheld the order of the CIT(A).

2.1. Thereafter, during the re-assessment proceedings u/s 143(3) r.w.s. 147 of the Act for the A.Y. 1999-2000, it was noticed that the assessee was showing opening work in progress of Rs.18,10,450/- in its Profit & Loss a/c for the A.Y. 2000-2001, but no closing balance of work in progress was shown for the A.Y. 1999-2000. When this was put to the assessee in the assessment proceedings for the A.Y. 1999-2000, assessee replied that it was labour charges, which was wrongly shown as opening work in progress for the A.Y. 2000-2001. Observing that there was an excess allowance of expenditure of Rs.18,10,450/- for A.Y. 2000-2001, the assessment for the A.Y. 2000-2001 was reopened u/s 147 of the Act.

2.2. Appeal against this assessment order also travelled up to ITAT and the ITAT had remanded the matter to the AO with a direction to re-examine and verify whether opening work in progress is actually expenditure incurred towards labour charges. The assessee was therefore required to furnish the details in respect of labour charges of Rs.18,10,450/- along with vouchers. The assessee furnished its books of accounts, ledger A/c, cash book and bank pass book and also list of cash expenditure incurred on various dates from 04.04.1999 to 22.03.2000 and photo copies of receipts regarding amounts paid on various dates along with list of recipients. The AO, thereafter, verified the said details and held that the payments made from 10.05.1999 to 25.05.1999, 11.06.1999 to 28.09.1999 and 09.10.1999 to 23.03.2000, in the cash book were completely different and does not match with the narration given in the ledger account and also that they do not match with the copy of the ledger furnished during the course of scrutiny proceedings. AO also observed that voucher numbers shown in the list which was stated to be the copy of ledger extract, does not match with the ledger account in the books of accounts provided by him. Therefore, AO was of the opinion that all the vouchers furnished by the assessee appears to be written at once only to show the payments were towards labour charges. Therefore, AO did not accept assessee's claim of Rs.18,10,450/- as representing labour charges and accordingly disallowed the same and brought it to tax.

2.3. Assessee filed an appeal before the CIT(A) who confirmed the assessment order. Aggrieved, assessee is in appeal before the Tribunal raising the following grounds of appeal.

- 1. The Order of the Ld.CIT(A) is erroneous both in law and facts of the case.*
- 2. The ld.CIT(A) erred in confirming the addition made by the AO of Rs.18,10,450/-, the Ld.CIT(A) ought to have considered the fact that the said amount represents the expenditure incurred in connection with the business activity of the appellant and that proper entries were made in the books of account.*
- 3. The ld. CIT(A) ought to have directed deletion of the addition made of Rs.18,10,450/- of the Act.*
- 4. Any other ground that may be urged at the time of hearing.*

2.4. This appeal was taken up for hearing through video conferencing on 28.10.2020 and both the parties were heard.

2.5. Ld.Counsel for the assessee, while reiterating the submissions made before the authorities below, submitted that the details furnished by assessee were not properly verified by the AO resulting in erroneous disallowance of claim of the assessee. He has drawn my attention to the entries in the cash book to demonstrate that except for certain discrepancies in the voucher numbers, there is no difference in the details of the payments made or quantum of

payment. Therefore, he submitted that the disallowance made by the AO and confirmed by the CIT(A) is not sustainable.

2.6. Ld.DR, on the other hand, supported the orders of the authorities below stating that assessee has failed to substantiate his claim of expenditure in spite of the opportunity provided by the Tribunal. Thus, he prayed for confirmation of the assessment order.

3. Having regard to rival contentions and on going through the material placed on record, I find that the AO, in the assessment order dated 31.12.2010, though AO has formulated the difference in the ledger A/c and cash book in the form of Tables I, II & III, I find that except for differences in the voucher numbers, the description of the payments and the quantum of payments are not different. Only the voucher numbers are not matching exactly and there is a difference only in the sequence e.g. if voucher number is 363, it is mentioned as 364 and if voucher number is 553 it is mentioned as 554 etc. I am of the view that without the corresponding difference in the details of payment and quantum of payment, only such difference in voucher numbers, the disallowance is not called for. On a sample verification of the voucher no.366, I find that the assessee has given the description of payment in respect of voucher 365, and hence AO has held that there is difference. I am satisfied that in almost all the payments the description of payment and quantum of payment are matching and that there is a slight variation in voucher numbers mentioned by the assessee. Therefore, I do not find any discrepancy

and the expenditure claimed by assessee of Rs.18,10,450/- is allowed.

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

Order pronounced in Open Court on 28<sup>th</sup> October, 2020.

Sd/-

**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Dated: the 28<sup>th</sup> October, 2020.

*\*GMV*

Copy forwarded to:

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2. The Income Tax Officer, Ward-8(1), Hyderabad.
3. CIT(A)-9, Hyderabad./JCIT Range 6, Hyd.
4. Pr.CIT-6, Hyderabad.
5. D.R. ITAT Hyderabad.
6. Guard file