

IN THE INCOME TAX APPELLATE TRIBUNAL  
 DELHI BENCH: 'SMC-I', NEW DELHI  
 BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
 AND  
 SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
 (THROUGH VIDEO CONFERENCE)

ITA NO. 6656/DEL/2019

A.Y. : 2016-17

SH. PRAVENDRA SINGH A-47, JAGRATI APPTT. SAINIK VIHAR, PITAMPURA NEW DELHI - 110034 (PAN: BDZPS5560E)	Vs.	DCIT, CIRCLE 62(1), NEW DELHI
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. B.L. MITTAL, ADV.
Department by	Sh. R.K. GUPTA, SR. DR.

**ORDER**

**PER H.S. SIDHU, JM:**

This appeal filed by the Assessee is directed against the impugned order dated 21.06.2019 passed by the Ld. CIT(A)-20, New Delhi in relation to assessment year 2016-17 on the following ground:-

*"On the facts and in the circumstances of the case the Ld. CIT(A) is wrong, unjust and has*

*erred in law in confirming the addition of Rs. 5,00,000/- disallowed out of job charges paid by the assessee without any evidence on record and which is based purely on surmises and conjectures, particularly, when there is a finding of fact that the same have been paid by the appellant assessee."*

2. The brief facts of the case are that assessee filed his return of income electronically on 24.11.2016 declaring income of Rs. 22,23,540/-. The case of the assessee was selected for scrutiny through CASS. Notice u/s. 143(2) of the I.T. Act, 1961 was issued on 17.8.2017 which was duly served upon the assessee. On the change of AO, again notice u/s. 142(1) of the I.T. Act, 1961 was issued to the assessee on 24.8.2018, but the assessee did not file any detail on this date. Subsequently notices were issued to the assessee from time to time and in compliance of the same, the AR of the assessee appeared and filed the requisite evidences for substantiating the claim of the assessee and also filed books of accounts which were checked by the AO and the case of the assessee

was also discussed by the AO with the AR of the Assessee. After examining the documentary evidences filed by the Assessee, the AO noticed that assessee has claimed job work charges of Rs. 75,73,090/- and assessee was asked to furnish the complete details of this job work expenses. In response to the same, the assessee filed documentary evidences, but as desired by the AO, the assessee has not furnished the party-wise details of job work done and the AO disallowed Rs. 5 lacs out of total expenditure claimed as Rs. 75,73,090/- and made the addition of Rs. 5 lacs to the total income of the assessee and completed the assessment u/s. 143(3) of the I.T. Act, 1961. Aggrieved with the assessment order, assessee appealed before the Ld. First Appellate Authority, who vide its impugned order dated 21.6.2019 has partly allowed the appeal of the assessee by allowing the benefit of TDS of Rs. 1,90,372/- and directed the AO to give the credit of TDS amount of Rs. 1,90,372/- to the assessee. Against the impugned order of the Ld. First Appellate Authority, assessee is in appeal before the Tribunal.

3. At the time of hearing, Ld. Counsel for the assessee stated that the assessee is a proprietor of M/s S.P. Construction and is engaged in the business of civil construction. The Income Tax Return for the assessment year 2016-17 was filed on 24.11.2016 declaring taxable income of Rs. 22,23,540/-. The case of the assessee was selected for scrutiny by issuing the notice u/s. 143(2) of the Act and after examining the documentary evidences filed by the Assessee, the AO made the addition of Rs. 5 lacs out of the job work and also disallowed TDS of Rs. 1,90,372/-. Ld. Counsel for the assessee stated that the assessee made the expenditure of Rs. 75,73,090/- on account of various type of job work charges paid during the under consideration for execution of the work from various parties and the details of the same has also been given to the AO which the AO has narrated in the assessment order. The assessee's AR further stated that all the major payments were made through cheques and the income tax was duly deducted from the said payments and also assessee also furnished all the evidences before the AO which was not properly appreciated by the AO and he wrongly disallowed the payment of Rs. 5 lacs alongwith TDS amount of Rs. 1,90,372/-.

But the Ld. CIT(A) has given the benefit of TDS of RS. 1,90,372/- and upheld the addition of Rs. 5 lacs on account of expenditure on job work charges paid to the various parties, in spite of the fact that the assessee has filed all the documentary evidences before the AO as well as before the Ld. CIT(A). He has also draw our attention towards the evidences filed by the assessee before the AO as well as before the Ld. CIT(A) and stated that in view of the evidences filed by the assessee on the account of expenditure of job work on which the TDS has also been deducted, the revenue authorities wrongly made the addition and hence, requested that the addition in dispute may be deleted by allowing the appeal filed by the assessee.

4. On the contrary, Ld. DR relied upon the orders of the authorities below and stated that assessee has not furnished the party-wise details of job work done and the basis on which payment has been made and showed his inability to substantiate his claim. Therefore, the revenue authorities have rightly made the addition in dispute and requested that the appeal filed by the assessee may be dismissed.

5. We have heard both the parties and perused the orders passed by the Revenue authorities especially the discussion of the revenue authorities on the expenditure of Rs. 75,73,090/-. In support, the assessee has filed all the details of expenditure and list of name with amount of payment, mode of payment and details of TDS deducted. We are of the view that the evidences filed by the assessee are very much important on the addition in dispute which have not been properly appreciated by the revenue authorities below. We are also of the view that the assessee has furnished all the complete evidences of expenses and the list of names with amount of payment, mode of payment and detail of TDS deducted for which Ld. CIT(A) has given the benefit of credit of TDS of Rs. 1,90,372/- and we also observe that major payments have been made by cheques and TDS has been deducted. Therefore, in our view, proper appreciation of evidences has not been done by the revenue authorities which is very much important and in our view the AO and the Ld. CIT(A) has not contradict the same. Therefore, we are of the view that the sufficient evidences have been filed by the assessee before the revenue authorities for substantiating the claim of the assessee

especially on the expenditure in dispute and the TDS deducted which has not been disputed by the revenue authorities, hence, the addition in dispute has wrongly been made in the case of the assessee which deserve to be deleted. Accordingly, we delete the addition in dispute by allowing the appeal of the assessee.

6. In the result, the Assessee's Appeal is allowed.

The decision is pronounced on 03.11.2020.

Sd/-

**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

Sd/-

**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

"SRB"

**Copy forwarded to:**

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi