

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' NEW DLEHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.3686/Del/2018
Assessment Year: 2014-15**

Rajiva Maheshwari,
308, Sincere Tower-4,
Preet Vihar, New Delhi

vs. ACIT, Circle 2(2)(1),
Intl. Taxation, New Delhi.

PAN : ACSPM0697D
(Appellant)

(Respondent)

Appellant by : Sh. Neeraj Kabra, CA
Respondent by: Sh. Govind Singhal, Sr. DR

Date of hearing: 29/09/2021

Date of order : 29/09/2021

ORDER

PER K. NARASIMHA CHARY, J.M.

Aggrieved by the order dated 20/3/2018 in appeal No. 200/2016-17 passed by the learned Commissioner of Income Tax (Appeals)-43, New Delhi ("Ld. CIT(A)"), in the case of Sh. Rajiva Maheshwari ("the assessee"), for the assessment year 2014-15, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is engaged in the business of import/export and trading of pulses as well as metals under the name of the proprietary concern Rajiva Exports. For the assessment

year 2014-15 he filed the return of income on 30/9/2014 declaring a total loss of Rs.85,54,140/-. Assessment under section 143(3) of the Income Tax Act, 1961 (for short "the Act") was complete by order dated 30/12/2016 at a loss of Rs.1,18,179/- by making addition of Rs.26,55,387/- on account of the payments made by the assessee to M/s Navkar Exim towards local purchase of Rs.23,11,364/- and to M/s All India Goods Carriers amounting to Rs. 3,44,023/-; and also Rs.46,80,574/-on account of payment of expenses made by the assessee to certain parties by treating the same as bogus expenses.

3. Aggrieved by such an action of the Assessing Officer, the assessee preferred appeal before the Id. CIT(A) and the Id.CIT(A) granted part relief to the assessee by confirming the addition to the tune of Rs. 23,11,364/- on account of the amounts shown as purchase from M/s. Navkar Exim on the ground that though the notice u/s. 133(6) of the Act sent by the Assessing Officer was returned with the endorsement that the party was not known at such address, confirmation was produced by the assessee before the Id. CIT(A) and, therefore, such confirmation letter is nothing but self serving document furnished by the assessee.

4. Hence, the assessee filed this appeal before us, contending that the authorities below failed to appreciate the circumstances surrounding the transaction and they did not offer an opportunity to the assessee to explain the circumstances and therefore, given an opportunity, the assessee is ready to explain the circumstances, which led to the return of the notice u/s. 133(6) of the Act sent to M/s. Navkar Exim with the endorsement that no such entity was to be found in that

address, and the assessee producing confirmation certificates. Assessee also produced the material in support of his contentions before us by way of paper book and pressed that an opportunity may be granted to the assessee to explain the facts and circumstances of the case, before the Id. CIT(A).

5. Learned DR fairly concedes the request of the assessee to remand the matter for verification, but submits that in the fitness of things, the Assessing Officer is competent to conduct such verification instead of the Id. CIT(A).

6. We have gone through the record in the light of submissions made on either side. Only ground for sustenance of the addition to the tune of Rs.23,11,364/- is that inasmuch as the notice u/s. 133(6) sent to M/s. Navkar Exim returned with the endorsement that no such entity is known at the given address, the confirmation letter produced by the assessee is nothing but a self serving evidence. As a matter of fact, the Assessing Officer could have required the presence of the concerned person from M/s. Navkar Exim and examined the facts and circumstances, instead of proceeding on mere suspicion. It is legitimate for the Assessing Officer to look into the aspect to give a concrete finding as to the genuineness of the confirmation letter instead of basing on the return of the notice issued u/s. 133(6) of the Act.

7. In these circumstances, we set aside the impugned order and restore the issue to the file of the Id. Assessing Officer to verify the genuineness of the confirmation letter issued to M/s. Navkar Exim in

the way in which he feels proper and reach a conclusion of fact.
Assessee shall assist the Assessing Officer in such verification.

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

Order pronounced in the open court on this the 29th day of
September, 2021.

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Sd/-

(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Dated: 29/09/2021

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