

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri Shamim Yahya (AM)

I.T.A. No. 7373/Mum/2018 (Assessment Year 2009-10)

M/s. Rohit Rubber Corporation 404-A, 3 rd Floor Waghwadi, Kalbadevi Road Kalbadevi, Mumbai-400 002. PAN : AAAGR8087N (Appellant)	Vs.	JCIT, Range-18(3) Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	Shri Kanishka Bijlani
Department by	Shri Milind Chavan
Date of Hearing	01.11.2021
Date of Pronouncement	03.11.2021

ORDER

This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals) [in short learned CIT(A)] dated 14.12.2018 and pertains to assessment year 2009-10.

2. The grounds of appeal read as under :

“1. On the facts and circumstances of the case, the Ld. CIT (Appeals) was not justified in treating purchases of Rs.9,47,000/- as bogus purchases and in confirming the order of the assessing officer in adding an amount of Rs. 1,18,375/-, at 12.5% of the alleged bogus purchases as the gross profit on the same.

2. On the facts and circumstances of the case, the Ld. CIT (Appeals) was not justified in endorsing the Ld. AO's action of not granting credit of tax deducted at source of Rs.5,25,653/-.

3. On the facts and circumstances of the case, the Ld. CIT (Appeals) was not justified in endorsing the Ld. AO's action of taking the regular assessment tax amount at (negative figure) Rs.2,89,214/- in the Income Tax Computation Form accompanying the assessment order.”

3. At the outset it is noted that this appeal has already been disposed of by this Tribunal vide order dated 20.5.2020. However, subsequently vide Miscellaneous Application No. 291/Mum/2020 vide order dated 31.8.2021

appeal was recalled to adjudicate ground No. 2 & 3 which have been remained un-adjudicated in the said ITAT order. Pursuant to the recall, I have heard both the parties and perused the records.

4. Learned Counsel of the assessee submitted that both the issues raised in ground No. 2&3 may be remitted to the file of the Assessing Officer to examine the issue from record and decide accordingly. Learned Departmental Representative fairly agreed to the above proposition.

5. Upon careful consideration, I note that in the aforesaid ground No. 2 the assessee is aggrieved by the non-grant of credit of TDS of Rs. 5,25,653/- and in ground No. 3 it is aggrieved by the Assessing Officer's action of taking the regular assessment tax amount at negative figure of Rs. 2,89,214/- in income tax computation form accompanying the assessment order. It is noted that the said form has not been produced before me. In any case since issues need to be examined at the level of the Assessing Officer, the same may be remitted to the file of the Assessing Officer. Accordingly in the interest of justice both the aforesaid grounds i.e. ground No. 2&3 are remitted to the file of the Assessing Officer. The Assessing Officer shall decide these issues after actual verification as per law.

6. In the result, the appeal by the assessee stands allowed for statistical purposes.

Pronounced in the open court on 3.11.2021.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 03/11/2021

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent

3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai