

आयकर अपीलीय अधिकरण न्यायपीठ रायपुरमें।
**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR**

(Through Virtual Court)

**BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI JAMLAPPA D BATTULL, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No. 272/RPR/2017

निर्धारण वर्ष / Assessment Year : 2008-09

The Income Tax Officer,
Ward-Janjgir, Champa

.....अपीलार्थी / Appellant

बनाम / V/s.

Shri Pritam Singh Gabel,
Prop. M/s. Preetam Tractors Road,
Sakti, Dist. Janjgir, Champa (C.G.)

PAN : AGIPG1118M

.....प्रत्यर्थी / Respondent

Assessee by
Revenue by

: Shri G.S. Agarwal, AR
: Shri Sanjay Kumar, DR

सुनवाई की तारीख / Date of Hearing :14.03.2022
घोषणा की तारीख / Date of Pronouncement : 30.03.2022

आदेश / ORDER

PER RAVISH SOOD, JM :

The present appeal filed by the revenue is directed against the order passed by the CIT(Appeal)-1, Bilaspur, dated 18.08.2017, which in turn arises from the order passed by the A.O under Sec.143(3)/147 of the Income-tax Act, 1961 (in short 'the Act'), dated 05.11.2015 for assessment year 2008-09. Before us the Revenue has assailed the impugned order on the following grounds of appeal:

"1. Whether on the facts and circumstances of the case and on points of the law, the Ld. CIT(A) was justified deleting the addition of Rs.4,77,755/- made by the AO on account of difference in liability against creditor ITL (International Tractors Ltd.), Hosiarpur as assessee had shown an amount of Rs.73,62,062.49/- in liability side of balance sheet under the head sundry creditors in the name of ITL (International Tractors Ltd.), Hosiarpur whereas as per ledger account of the said party, closing balance was shown at Rs.78,39,817.61/-

2. The order of the Ld. CIT(A) is erroneous both in law and facts.

3. Any other ground that may be adduced at the time of hearing of appeal."

2. Original assessment in the case of the assessee was framed by the A.O vide his order passed u/s.143(3) of the Act, dated 22.11.2010, determining the total income of the assessee at Rs.4,56,930/-.

Observing, that the income of the assessee chargeable to tax had escaped assessment, the A.O reopened his case under Section 147 of the Act for the following reasons :

“(a) Assessee has shown international tractors Ltd. Hoshiarpur as creditor for Rs.73,62,062/- in his balance sheet as on 31.03.2008 whereas as per ledger account of the said party, balance shown is Rs.78,39,817/-.

(b) Assessee has claimed Rs.61,505/- in P & L account towards loss on vehicle sales. This should have been adjusted in fixed asset itself instead of debiting it P & L account.”

3. During the course of the assessment proceedings, it was noticed by the A.O that while for the assessee in his “balance sheet” had shown International tractors Ltd. Hoshiarpur as a creditor for Rs.73,62,062/- in his “balance sheet” for the year under consideration, but the aforesaid party had in its books shown the balance recoverable from the assessee at Rs.78,39,817/-. As the assessee failed to come forth with any plausible explanation as regards the difference in the accounts, the A.O added the same i.e, Rs.4,77,755/- [Rs. 78,39,817/- (-) Rs. 73,62,062/-] to the returned income of the assessee; and vide his order passed u/s.143(3) r.w.s 147, dated 05.11.2015 assessed his total income at Rs.9,96,190/-.

4. Aggrieved, the assessee carried the matter in appeal before the CIT (Appeals). As is discernible from the records, the CIT(Appeals) after deliberating at length on the issue in hand, observed, that the aforesaid creditor, viz. M/s. International Tractors Ltd., Hoshiarpur had by way of a consistent trade practice i.e, since F.Y.2000-01 raised 'debit notes' towards interest on the assessee for its failure in not meeting out the target of sales of the tractors, which thereafter on achieving of the target was obliterated by way of a corresponding credit note for interest. Backed by the aforesaid facts, the CIT(Appeals) was of the view that as the respective entries which had resulted to the impugned difference of Rs.4,77,756/- (supra) was not in the nature of income but was an incentive/encouragement to the assessee to increase its turnover, thus, found favor with the claim of the assessee that no addition of the said amount could have validly been made in his hands. For the sake of clarity the relevant findings of the CIT (Appeals) regarding the issue in hand are reproduced as under:

"I have considered the rival submission and find that only twice in the year the tractors had been returned by the assessee and on account of debit note for interest he had only raised the sales of tractors and meeting the target fixed by the seller. Since such entry is not of income in nature rather encouragement to increase the turnover and if turnover is met the same debit note is reverted. Thus, I do not find that the AO could analyse the facts correctly. As such the entry which is reverted without any transfer of fund from the assessee could not be fastened as difference in the balance. Thus, addition made by the AO is hereby deleted. Relief Rs.4,77,755/-."

We have given a thoughtful consideration to the aforesaid observations of the CIT (Appeals) and finding ourselves to be in agreement with the view therein taken, thus, uphold his order. Thus, the **Ground of appeal No.1** raised by the revenue is dismissed in terms of our aforesaid observations.

5. **Grounds of appeal No.(s) 2 and 3** being general in nature are dismissed as not pressed.

6. In the result, appeal of the revenue is dismissed in terms of our aforesaid observations.

Order pronounced in the open court on 30th day of March, 2022.

Sd/-

JAMLAPPA D BATTULL
(ACCOUNTANT MEMBER)

Sd/-

RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 30th March, 2022

SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeal), Bilaspur (C.G)
4. The Pr. CIT, Bilaspur (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुरबेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

		Date	
1	Draft dictated on	23.03.2022	Sr.PS/PS
2	Draft placed before author	24.03.2022	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		