

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "SMC" BENCH: NEW DELHI**

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.4793/Del/2019**

**[Assessment Year : 2012-13]**

JCE Engineering & Management Services Ltd., B-21, 2 <sup>nd</sup> Floor, Lajpat Nagar, New Delhi-110024. PAN-AAACJ0073D	vs	ITO, Ward-13(1), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Puneet Matta, CA	
<b>Respondent by</b>	Shri Om Prakash, Sr.DR	
<b>Date of Hearing</b>	09.05.2022	
<b>Date of Pronouncement</b>	20.05.2022	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee for the assessment year 2012-13 is directed against the order of Ld. CIT(A)-36, New Delhi dated 27.03.2019. The assessee has raised following grounds of appeal:-

1. *"That on the facts on circumstances of the case the Honorable CIT(Appeals)-36 has erred and is in not justified in disallowing consultancy expenses Rs.28,86,607/-.*
2. *That assessee company may be allowed to add more point at the time of hearings of the appeal."*

2. The only effective ground in this appeal is against confirming the addition regarding disallowance of consultancy charges of Rs.28,86,607/-.

**FACTS OF THE CASE**

3. Facts giving rise to the present appeal are that in this case, the original return was filed on 29.09.2012 declaring income of Rs.2,54,130/- which was subsequently, it was revised on 17.01.2013. The return was processed u/s

143(1) of the Income Tax Act, 1961 (“the Act”). The case was selected for scrutiny assessment under CASS. A notice u/s 143(2) of the Act was issued to the assessee. In response to the statutory notice, the Ld. Authorized representative (“AR”) of the assessee attended the proceedings and filed details as called for. The assessee company is engaged in the business of engineering consultancy. The Assessing Officer (“AO”) noticed that during the year under consideration, the assessee disclosed professional receipt of Rs.2,32,02,086/- as against professional receipts of Rs.1,68,76,024/- in last year. The assessee claimed to have paid professional charges of Rs.1,50,54,382/- however, professional charges were claimed at Rs.15,13,817/- in the last year. Therefore, the AO asked the assessee to explain and substantiate the expenses so claimed. Further, the AO also issued notice u/s 133(6) of the Act to the various parties. However, the AO did not receive any reply from five (05) parties namely, **[i]** Spectrum Techno Consultants Pvt.Ltd., **[ii]** M.K.Soil Testing Laboratory, **[iii]** Balaji Hydro Mech Experts, **[iv]** Chaudhari Construction and **[v]** Ujwal Systems. The AO therefore, taking into consideration that the professional charges had increased from the last year from Rs.15,13,817/- to Rs.1,50,54,382/- and the assessee did not file any satisfactory reply as to how professional charges have been increased. He proceeded to make addition of Rs.28,86,607/- in respect of the professional charges paid to the parties from whom no reply was received. The AO further made addition of Rs.47,470/- in respect of disallowance of depreciation, Rs.8,00,000/- on account of non-deduction of TDS and interest of Rs.1,30,787/-. Thus, the AO assessed the income at Rs.41,70,741/- against the returned income of Rs.2,54,130/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions of the assessee, partly allowed the appeal of the

assessee. Thereby, Ld.CIT(A) deleted the additions of Rs.8,00,000/- and Rs.49,747/- however, sustained the addition at Rs.28,86,607/-.

5. Aggrieved against the sustaining of addition of Rs.28,86,607/- by the Ld.CIT(A), the assessee preferred appeal before the Tribunal.

6. At the outset, Ld. Counsel for the assessee submitted that the addition was sustained on account of non-furnishing of original evidences. Ld. Counsel for the assessee further reiterated the submissions as made in the written submissions.

The submissions of the assessee are reproduced hereunder:-

1. *“Appellant JCE Engineering & Management Services Ltd. is an Engineering Consultancy company rendering detailed consultancy services to various government department private & public sector companies besides others.*

2. *Appellant Company has paid / Credited consultancy charges to the following consultants:-*

a.	<i>M/S M.K Soil Testing</i>	<i>11,70,575</i>
b.	<i>M/S Balaji Hydro Mech experts</i>	<i>35,000</i>
c.	<i>M/S Chaudhary Constructions</i>	<i>79,000</i>
d.	<i>M/S Ujjwal System</i>	<i>1,68,032</i>
e.	<i>Spectrum Techno Consultants Pvt. Ltd.</i>	<i>14,34,000</i>
	<i>Total</i>	<i>28,86,607</i>

3. *The Appellant Company has filed photocopies if confirmation certificates received), from all the above consultants except spectrum Techno-Consultants Pvt. Ltd and produced original confirmation certificate for verification before the honourable Commissioner of the Income Tax (Appeals)-36, but this had escaped has kind attention while framing the appellate order. The original certificates are now enclosed for your kind perusal and verification with these submissions.*

4. *Appellant company has deducted applicable TDs out of the payments given to all the above consultants and has submitted copies of TDS documents to the Honorable CIT (Appeals) The copies of form No. 16 issued to theses consultants and available on the TDS portal of the department are enclosed with these submissions.*

5. *Appellant Company has paid total sum of Rs. 14,34,000/- to Spectrum Techno Consultants Pvt. Ltd. the Copy of ledger account of this consultancy company was submitted to Honourable CIT Appeals. All the payment were made to them by account payee cheques against their invoices and work -orders after deduction of applicable TDS. The copies of Form No. 16A taken from TDS Portal if Income Tax Department enclosed with these Submissions.*

*Keeping in view of all above we feel that there is no reason for addition of Rs. 28,86,607/- in the taxable income of the assessee company.*

*It is therefore prayed that the additions of Rs. 28,86,607/- be deleted in the Interest of justice.”*

7. On the contrary, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below. He contended that Ld.CIT(A) was justified in sustaining the addition as the assessee failed to produce original confirmation and other supporting evidences.

8. I have heard the contentions of Ld. Authorized representatives of the parties and perused the material available on record. I find that Ld.CIT(A) confirmed the addition by observing as under:-

4.3.3.4. *“The submissions filed by the appellant have been considered. During the appellate proceedings, the appellant has submitted the confirmation from the following four parties- M/s. M.K Soil Testing Laboratory (Rs.11,70,575/-); M/s. Balaji Hydro Mech Experts (Rs. 35,000/-); M/s. Chaudhari Construction (Rs. 79,000/-); and M/s. Ujwal Systems (Rs. 1,68,032/-). A perusal of the confirmation filed reveals that these are copies allegedly signed by the four parties however, the appellant could not produce the original confirmations for verification. Further, the AR of the appellant could not explain from the documents submitted the exact TPS deducted or proof thereof in case of the above four parties. With regard to the fifth party, M/s. Spectrum Techno Consultants Pvt. Ltd. (Rs. 14,34,000/-), it is seen that*

*the appellant has not submitted the confirmation nor could the appellant give proof regarding the TPS deducted. In view of the above discussion, the appeal on ground no. 2 is dismissed.”*

9. From the above finding, it is clear that the addition was sustained in the absence of the requisite evidences. The contention of the assessee is that payment is genuine. The tax has been deducted by the Department which is available on Income Tax Portal. Looking to the facts and circumstances of the present case, the issue is restored to the file of Ld.CIT(A) to verify the claim of the assessee regarding payment of professional charges and deduction of tax thereof. Therefore, the assessee is directed to produce the original copy of confirmation given by the four parties namely [i] M.K.Soil Testing Laboratory, [ii] Balaji Hydro Mech Experts, [iii] Chaudhari Construction and [iv] Ujwal Systems. If the Ld.CIT(A) finds that the assessee has deducted tax on the professional charges paid to afore-mentioned parties and produce original confirmation from the parties, he would delete the addition. Thus, ground raised by the assessee is allowed for statistical purposes.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 20<sup>th</sup> May, 2022.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI