

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ **ITA No.681/Chny/2020**
(निर्धारण वर्ष / **Assessment Year: 2012-13**)

Hanil Tube India Pvt. Ltd. B-75, SIPCOT Industrial Park, Irungattukottai, Sriperumbudur, Kanchipuram District – 602 117	बनाम/ Vs.	DCIT Corporate Circle-2(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AABCH-8885-Q		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri S.P. Chidambaram (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Abani Kanta Nayak (CIT) – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	30-05-2022
घोषणा की तारीख / Date of Pronouncement	:	08-06-2022

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2012-13 arises out of the order of learned Commissioner of Income Tax (Appeals)-5, Chennai [CIT(A)] dated 26.02.2019 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s. 92CA(3) of the Act on 17.03.2016. The grounds raised by the assessee are as under:

- 1) The order of the CIT(A) is contrary to the law, facts and circumstances of the case in so far as he confirms the additions made by the Assessing officer.

2) Addition of mismatch in Form 16A

- (i) The lower authorities erred in stating that there is a mismatch between the interest income from SBI in Form 16A and the account of the appellant.
- (ii) The CIT(A) should have directed the AO to call for details from SBI instead he confirmed the disallowance,
- (iii) The CIT(A) erred in concluding that the appellant was at fault.

3) Addition of Rs under Sec 40(a)(ia)

- (i) The CIT(A) erred in holding that the amount in question is not allowable as the TDS was not paid within the year of account
- (ii) The CIT(A) failed to note that the appellant has paid the TDS amount within the time allowed in law and the lower authorities failed to verify the facts in this regard
- (iii) The lower authorities wrongly gave a finding regarding the correct assessment year and financial year and this led to the disallowance made.
- (iv) The lower authorities ought to have given adequate opportunity to the appellant company to explain the same.

Additional grounds of appeal

The lower authorities may be directed to apply the provisions of section 40(a)(ia) in the year 2010 which allows that the belated remittance of TDS can be considered and no disallowance can be made in terms of Sec. 40(a)(ia) of the Income Tax Act, 1961, as per the decisions cited above.

Since the additional ground is alternative plea, the same is admitted. As evident, the grievance of the assessee is two-fold i.e., (i) Addition on account of mismatch in Form 16A; (ii) Disallowance u/s 40(a)(ia).

2. The Registry has noted delay of 427 days in the appeal, the condonation of which has been sought by the assessee on the strength of affidavit of Director of the assessee firm. It has been submitted the impugned order was served on 21.03.2019 and the order was received by the security staff. Subsequently, the papers were handed over to the Tax Consultant for further advice. However, certain details has asked for by the Tax Consultant could not be gathered in time. In the meantime, the person handling the tax matter resigned and the matter remained unattended, which led to the delay in the appeal. Further, during March, 2020, due the Covid-19 lockdown, the entire staff did not attend the office, which led to further delay in filing the appeal. Though Ld. DR

opposed the condonation of delay, however, keeping in view the contents of the affidavit, we condone the delay and admit the appeal for adjudication on merits.

3. The assessee being resident corporate assessee is stated to be engaged in manufacturing of tubes, pipes, automotive components and tubular products primarily for the automobile industry. The facts as well as our adjudication to both the issues would be as under: -

4. Addition on account of mismatch in Form 16A:

4.1 Upon perusal of Form-16A, it transpired that the assessee offered less interest income as earned from State Bank of India but it claimed full TDS credit. The amount as per Form-16A was Rs.32.18 Lacs whereas the interest amount in the financials was Rs. 27.15 Lacs. In the absence of any reconciliation or explanation, the differential of Rs.5.03 Lacs was added to the income of the assessee. The same, upon confirmation by Ld. CIT(A). is in further appeal before us.

4.2 The Ld. AR submitted that the assessee has pursued the matter with SBI for rectification of Form 16A and the amount as reflected in the financials is correct amount. Considering the same, we remit the matter back to the file of Ld. AO to re-consider figures reflected in Form 26AS as well as in Form 16A and re-adjudicate the issue. The assessee is directed to explain / reconcile the same. The ground thus raised stand allowed for statistical purposes.

5. Disallowance u/s. 40(a)(ia):

5.1 In computation of income, the assessee deducted an amount of Rs.44.84 Lacs which was stated to be expenses disallowed in previous year for non-payment of TDS. Since the tax was paid in this year, the assessee claimed the deduction of the same. It was submitted that the

expenses of Rs.10.59 Lacs pertained to year ending 31.03.2010. However, the same was rejected by Ld. AO since there was no matching with the disallowed expenses and Challans paid. The remaining amount of Rs.34.25 Lacs was stated to be pertaining to the year 31.03.2011. However, upon perusal of challans, it was noted that all challans were paid within due date as prescribed u/s 139(1) and the challans payments were not related to expenses of AY 2011-12. Therefore, the same was also rejected. The action of Ld. AO, upon confirmation by Ld. CIT(A), is in further appeal before us.

5.2 The Ld. AR sought another opportunity to file the requisite details for the year ending 31.03.2011 and pleaded to restore the matter back to the file of Ld. AO. Considering the fact that the disallowance has been made in the absence of any satisfactory details being filed by the assessee, we restore the matter back to the file of Ld. AO qua the disallowance of Rs.34.25 Lacs pertaining to year ending 31.03.2011 with a direction to the assessee to file the requisite details and challans. The Ld. AO is directed to consider the same and re-adjudicate the issue. The ground thus raised stand allowed for statistical purposes.

6. The appeal stand partly allowed for statistical purposes.

Order pronounced on 08th June, 2022.

Sd/-
(V. DURGA RAO)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 08-06-2022
EDN/-

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

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF