

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'H': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.5376/DEL/2019
[Assessment Year: 2013-14]**

DCIT, Circle-13(1), Room No.316-A, Central Revenues Building, I.P. Estate, New Delhi-110002	Vs	M/s Jain Spun Pipe Pvt. Ltd. 417, 1 st Floor, Bhera Enclave, Paschim Vihar, New Delhi-110087
PAN-AGQPJ2216D		
Revenue		Assessee

Revenue by	Ms. Anupama Singla, Sr. DR
Assessee by	None

Date of Hearing	09.06.2022
Date of Pronouncement	23.06.2022

ORDER

PER SHAMIM YAHYA, AM,

This appeal by the Revenue is directed against the order of the Ld. CIT(A)-5, New Delhi, dated 27.03.2019 pertaining to Assessment Year 2013-14.

2. The grounds of appeal read as under:-

“1. Whether, the Ld. CIT(A) has erred in facts and in law, in deleting the disallowance of Rs.44,58,401/- made by the Assessing Officer on account of difference in figures of purchase from M/s Jain Spun Pipe Co.?”

2. Whether, the Ld. CIT(A) has erred in facts and in law, in deleting the disallowance of Rs.22,17,873/- made by the

Assessing Officer on account of difference in figures of purchase from M/s Bhiwani Trading Co.?

3. That the appellant craves leave to add, alter, amend or forego any ground(s) of the appeal raised above at the time of hearing.”

3. Brief facts of the case are that the appellant submitted the return of income, declaring loss of (-) Rs.1,11,12,974/- (revised). The case was selected for scrutiny u/s CASS and assessment proceedings were carried out. During assessment proceedings, it was observed by the Assessing Officer from the confirmation by M/s Jain Spun Pipe Company that appellant has made purchases of Rs.10,51,14,788/- from it whereas, in the details of total purchases, Rs.10,06,56,380/- was mentioned against the party. The appellant was asked to justify/clarify this difference which was replied by appellant stating that this difference is due to the fact that VAT is debited separately and not through purchase account. In the absence of any proof and other details, the difference was added back to the total income of the appellant. Similarly, from M/s Bhiwani Trading Company, the appellant has shown purchases of Rs.4,20,06,340/- whereas per the confirmation from the said party, the purchases has been shown at Rs.4,42,24,213/-. Though, the appellant has stated that this difference is due to the reason that VAT is debited separately and not through purchase account, the difference was added as no proof or details submitted.

4. Upon assessee's appeal, the Ld. CIT(A) noted the submission of the assessee and accepted the plea that the difference was on account of discrepancy in VAT amount. The Ld. CIT(A) has held as under:-

“6.2 As mentioned earlier, the addition has been made due to difference in the figures of purchases as shown by the appellant and confirmed by the respective parties. It is seen that, the ledger account of both the parties for purchases made have been provided before AO along with details of VAT, which is also produced before undersigned. On going through such account it is seen that the difference of Rs. 22,17,872/- in the case of Bhiwani Trading Corporation is due to the VAT amount, which was shown exclusive of purchases and paid/taken credit of, subsequently. In the case of M/s Jain Spun Pipe Company, the similar treatment has been given in the account for the purchases from it, showing net purchases of 10,06,56,380/-. In this case, the VAT has been shown at Rs. 52,87,590/-. It is stated by appellant that the figure taken by the AO for VAT is not correct because the VAT is taken on actual basis, for which the details of VAT has been provided. The net purchase is of the same value. This was substantiated with the details of VAT, as per the VAT return.

6.3 Looking to the facts and circumstances of the case and on examination of the details of account and VAT payment/credit shown in its VAT return, it is seen that the contention of appellant is borne out of record and the appellant duly demonstrated the reason for such difference. In view of above, the addition made by the AO is not called for and directed to be deleted accordingly. These grounds of appeal are allowed. The AO is also directed to correct the figure of disallowances, as pointed by the appellant, in its written submission dated 01.03.2019, reproduced above, for future reference.”

5. Against the above order, the assessee is in appeal before us.
6. We have heard the ld. DR and perused the records. None appeared on behalf of the assessee despite notices issued. Upon careful consideration, we note that the Ld. CIT(A) has given a factual finding after due examination, he has found that the difference in the figures is only on account of discrepancy in VAT amount. No cogent submission

has been made on behalf of the Revenue that this finding is wrong. In our considered opinion, the ld. CIT(A) has given a finding of fact by examining the assessee's accounts in detail, the same cannot be interfered with until cogent evidence to the contrary is brought on record before us by the Revenue. Moreover, the tax effect in this case is below the limit fixed by the CBDT for filing the appeal before the ITAT. In this view of the matter also, upon careful consideration, we uphold the order of the Ld. CIT(A).

7. In the result, the appeal of the Revenue stands dismissed.

Order pronounced in the open court on 23.06.2022.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Delhi; Dated: 23.06.2022.

Shekhar,

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi