

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT

BEFORE SHRI PAWAN SINGH, JM & DR. A.L.SAINI, AM

आयकर अपीलसं./ITA No.361/SRT/2019

(निर्धारणवर्ष / Assessment Year: (2014-15)

(Virtual Court Hearing)

Shahenshahhussain Moinuddin Khan, 1/3982, B/h Old Civil Hospital, Chowk Bazar, Surat-395001	Vs.	Deputy Commissioner of Income Tax, Circle-1(1)(1) Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AGOPK 0569 J		
(Appellant)		(Respondent)

Assessee by : Shri Brijesh D Ariwala, F.C.A

Respondent by : Shri J.K.Chandnani, Sr-DR

सुनवाई की तारीख/ **Date of Hearing** : **09/05/2022**

घोषणा की तारीख/**Date of Pronouncement** : **19/07/2022**

आदेश / ORDER

PER DR. A. L. SAINI, ACCOUNTANT MEMBER:

Captioned appeal filed by the assessee, pertaining to assessment year 2014-15, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals) [‘CIT(A)’ for short] dated 08.05.2019, which in turn arises out of an order passed by the Assessing Officer under section 147 r.w.s. 143(3) of the Income Tax Act, 1961 (in short ‘the Act’), dated 29.11.2017.

2. The grounds of appeal raised by the assessee are as follows:-

“1.The Ld. CIT(A), Surat-1, has erred in Law and facts, in considering the trade advance in nature of commercial transactions, as advance which attracts provisions of section 2(22)(e) of the I.T. Act, 1961. The AR of the assessee has clearly demonstrated as to nexus between the advances made by the company to the firm, as persons buying goods (feed/seed/medicines etc.) from the firm are same, as persons selling goods (Shrimp/prawns) to the company, clearly demonstrating the nexus of trade advance made by company was for the benefit of company’s inward supplies.”

3. Shri Brijesh D. Ariwala, Learned counsel for the assessee, submitted before the Bench, the paper book containing page Nos. 1 to 46 and stated that following

evidences and documents were not filed before Ld. CIT(A) during appellate proceedings:

S.No.	Brief description of documents	Page Nos.
(i)	Ledger account of ISL Trading from books of Bashir & Washi Fish Co.Pvt. Ltd. (advance given)	8
(ii)	Ledger account of Abis Exports (I) Pvt. Ltd form books of ISF Trading. (purchases made, and payment made), with copy of purchase invoices	9-11
(iii)	Ledger account of Razzsraqo Sealine from books of ISF Trading (for sales made), along with copies of sales invoices (FY 2013-14)	12-20
(iv)	Ledger account of Shiv Aqua Farm from books of ISF Trading (for sales made), along with copies of sales invoices (FY 2013-14)	21-28
(v)	Ledger account of Razzaqo Sealine and Shiv Aqua Farm from books of ISF Trading (for sales Made) (FY 2014-15)	29-33
(vi)	Ledger account of Shiv Aqua farm from books of Bashir & Washi Fish Co. Pvt. Ltd. (for purchases and payment made) (for FYs 2013-14 & 14-15) alongwith extract of bank statements of company.	34-40
(vii)	Ledger account of Razzaquo Sea Line from books of Bashir & Washi Fish Co. Pvt. Ltd. (for purchase and payment made) (for FY 2014-15), alongngwith extract of bank statements of company.	41-45
(viii)	Flowchart demonstrating the trade advance	46

4. Further, Ld. Counsel for the assessee argues that these additional papers and evidences/ documents are for the purpose to substantiate the transactions done by the assessee therefore, these evidences should not be treated as an additional evidences.

5. On the other hand, Ld. Senior Departmental Representative stated that evidences, and documents filed by the assessee, by way of paper book before the Bench, were not furnished before the Ld. CIT(A) during appellate proceedings, therefore Ld. Sr.DR submitted that these additional evidences were not examined by the lower authorities, hence the issue may be remitted back to the file of Ld. CIT(A) for fresh adjudication. The ld DR further stated that ld CIT(A) should take proper remand report from the assessing officer in respect of these additional

evidences and after providing opportunity of rebuttal to the assessee, the issues involved in this appeal may be adjudicated in accordance with law.

6. We have heard both the parties and perused the materials available on record. We note that assessee filed aforesaid documents and evidences by way of paper book before the Bench and accordance to us most of these documents and evidences were neither filed before Ld. CIT(A) at the appellate stage nor before Assessing Officer at the assessment stage. Therefore, we are of the view that an opportunity should be given to Ld. CIT(A) to examine these additional evidences by taking remand report from Assessing Officer. Hence, we remit the issue back to the file of Ld. CIT(A) with the direction to examine all the documents, bills and evidences. The Ld CIT(A) should take remand report from Assessing Officer and after providing reasonable opportunity of rebuttal to the assessee, adjudicate the issue in accordance with law. The assessee is directed to appear before the Ld.CIT(A) as and when the date of hearing and to provide with all necessary evidence and information without any further delay and not to seek the adjournment without any valid reasons.

7. In the result, the appeal of the assessee is allowed for statistical purposes in above terms.

Order is pronounced on 19/07/2022 by placing the result on the Notice Board.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat/दिनांक/ Date: 19/07/2022

Dkp Outsourcing Sr.P.S.

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr.CIT
5. DR/AR, ITAT, Surat
6. Guard File

// True Copy //

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat