

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

IT(SS)A Nos. 67, 68 & ITA 157/SRT/2021
(Assessment Years: 2013-14, 2014-15 & 2015-16)
(Hearing in Physical Court)

Sitaram Prints Pvt. Ltd., Plot No. 11, Road No. 10, Udhna Udhyog Nagar, Udhna, Surat-394210, (Gujarat). PAN : AAECs 2255 C	Vs.	Dy. Commissioner of Income Tax, Circle-2, Aayakar Bhavan, Near Majura Gate, Surat-395001.
APPELLANT		RESPONDEDNT

Assessee by	Shri Rasesh Shah, CA
Department by	Shri H.P. Meena, CIT-DR
Date of hearing	17/08/2022
Date of pronouncement	17/08/2022

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This set of three appeals by the assessee are directed against the separate orders of the learned Commissioner of Income Tax (Appeals)-4, Surat [in short, the ld. CIT(A)] all dated 27/07/2021 for the A.Y. 2013-14, 2014-15 and 2015-16 respectively. In all these appeals, the assessee has raised certain common grounds of appeal, except variations of addition on account of alleged unaccounted job receipt. Facts in all three years are almost similar, therefore, with the consent of parties, all appeals were clubbed, heard together and are being decided by this consolidated order to avoid the conflicting decision. For appreciation of facts, the appeal for the A.Y. 2013-14 is treated as a "lead case".

In this appeal, the assessee has raised following grounds of appeal:

- “1. On the facts and circumstances of the case as well as on the subject, the learned CIT(A) has erred in confirming part action of assessing Officer in making addition of Rs. 12,94,933/- being profit @ 5% of alleged unaccounted job receipts.*
- 2. It is therefore prayed that addition made by the assessing officer and confirmed by CIT(A) may please be deleted.*
- 3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”*

2. Brief facts of the case are that a search action was carried out under Section 132 of the Income Tax Act, 1961 (in short, the Act) on 19/02/2015. In the group cases of Sumeet Industries Limited, Surat. The assessee is a part of Sumeet Industries. During the course of search action, certain incriminating documents related with the assessee was also found. Consequent upon search action, notice under Section 153A dated 30/12/2015 was issued to the assessee for filing return of income. In response to notice dated 30/12/2015, the assessee filed its return of income on 16/06/2016 declaring income of Rs. 36,06,660/-. The Assessing Officer after serving notice under Section 143(2) and 142(1) of the Act, proceeded for assessment. During the assessment, the Assessing Officer noted that the assessee is engaged in the business of job work of dyeing and printing of textile goods. The Assessing Officer compared the job work receipt submitted by assessee with the incriminating material/evidence retrieved from the Purchi.exe software (software in the computer system of assessee) and noted that there was difference of expenses of job work retrieved from

Purchi.exe software of Rs. 2,58,98,667/- for this assessment year. The Assessing Officer from the date in Purchi.exe software (Purchi.dbf) and prepared summary of such difference in para 4.1 of the assessment order. On the basis of such differences, the assessing officer issued show cause notice to the assessee as to why the addition of such difference on unaccounted job work be not made in the income of assessee. The assessee filed its reply dated 26/09/2017 and furnished certain evidences and submitted that the data recovered from the computer back up is related to reprocessing. The reply of assessee was not accepted by the Assessing officer. The Assessing officer was of the view that the assessee has not shown actual job work done for these parties. If there was no processing work were carried out for these parties, how the assessee can claim such work reflected in the data recovered from computer back up as reprocessing work. The Assessing Officer was also of the view that on comparison of the parties which are common in the books and data recovered from the computer back up, the job work done is very higher than job work reflected in the books of account. Such summary was prepared in para 4.5 of the assessment order.

3. The Assessing Officer also identified certain example for some parties as recorded in para 4.7 of assessment order. In case of Mata Rani Sarees, as per books, the assessee processed 118 taka during the period 17/07/2012 to 22/09/2012. On the other hand, 49 taka was processed from 03/11/2012 to 29/11/2012. The assessee claimed that reprocessing is internal process of

organization and data maintained in Purchi.exe software is only for organization the how can reprocessing work be done after the one month of dispatch of finished goods. Such action shows that the claim of reprocessing is not genuine. The details of job work of Mata Rani Sarees was compiled in para 4.7 of assessment order. On the basis of such discrepancies, the Assessing Officer was of the view that there are two different set of data related to job works maintained in the computer and data maintained in Purchi.exe software is not accounted in the books of account. The Assessing officer disallowed 20% of receipt of unaccounted job work by treating as 20% (20% of 2,58,98,667) as profit of such unaccounted job work. The Assessing Officer worked out the addition at Rs. 51,79,733/- in the assessment order passed under Section 143(3) r.w.s. 153A dated 16/10/2017.

4. Aggrieved by the additions, the assessee filed appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee filed detailed written submissions. The submissions of assessee are recorded in para 5 of order of Id. CIT(A). In the submission, the assessee in sum and substance, submitted that the assessee is engaged in the business of job work of dyeing and printing of textile goods. The customers supplied grey fabrics to be processed. The design development department of assessee designs the same as per customer's requirements and then the print is finalized. When the grey fabrics enters into the premises, number of taka (90 to 110 meters of grey/finished fabric folded together) delivered in matched with delivery challans. A numeric lot number is allotted to

identify the taka of grey fabrics received from individual party. Generally, 4, 8 or 12 takas make a lot. Based on lot number, job card is prepared. Job card is used to identify a lot during various processes of dyeing and printing. The assessee prepared its books of account based on entry made in lot register and sales/job work register in FAS.exe (may be internal system software). After approval from customer, printing work is executed in accordance with a planned programme. The process cycle runs through lot allotted, lot marking, stitching, drum/jet process, setting on stanter, folding, batching, printing, loop for colour fixsession, washing, stanter for finish, zero-zero, folding and dispatch. During the processing cycle, until the process results are not as per the desired outcome, it is reprocessed again and again. The software also generates automatic code for party entered in the software. For reprocessing, the entry has to be made in Purchi.exe software until final job bill is not made. The assessee explained that the reason behind using two sets of software is just to differentiate the regular work with internal process and recording i.e. FAS.exe for final output and Purchi.exe for internal work. In many cases, depending on the quality of the material supplied and the outcome desired, the same material has to be processed and/or printed multiple times. The double printing and processing are also recorded in Purchi.exe software. It was explained in the form of example that 100 meters of grey received from one customer for special designing and printing which requires 3 times cycle on the material, the same is batched three times. Even after that, if half lot is not perfect another batch is made of say 50

meters for processing whichever is required. So, for 100 meters of grey, the assessee's processing is done or more than 300 meters batches. These reprocessed batches are recorded in Purchi.exe software which does not contain financial data. This reprocess is internal part of organization. The cycle can nearly take a month. At the yearend or in regular intervals, all the data related to reprocess internal work done recorded in Purchi.exe software is deleted as the same is useless and of no future purpose. The Assessing Officer recorded that during the course of survey under Section 133A of the Act at the business premises of assessee, from the back up of computer, inventoried as Annexure-A-4, deleted files were retrieved which contained purchi data. The assessee explained that the above modus operandi explains the entire job work details undertaken by the assessee during the year under consideration. For comparison of data of books of account with purchi data, the assessee submitted that there are numerous reprocess, process and multiple process which are undertaken on single material. The data contained in CD provided as per data maintained for such kind of internal process work will never match for the reason that there is duplication or triplication of work. The final job bill is prepared on the basis of final output which is recorded in FAS.exe software i.e. books of account. The assessee further explained that the Assessing officer mentioned in the assessment order that there are some parties listed in purchi software which are not reflected in the job work as per books of account. The assessee explained that during the process, depending on the quality of grey material, process is

decided by design department in 3 or 4 cycles and this double work is entered in the purchi software as it is a part of the internal process. During the entire process, there are chances of defects and to remove these defects the lot is sent for reprocess which is again entered in the purchi software. For similar defect or further process, lot of different parties are merged and given one lot number for entering in purchi software to avoid lengthy entry work in purchi software. The assessee also explained that the allegation of unaccounted processing are not correct. If there is alleged unaccounted job work by assessee, they there must be some unaccounted work in progress (WIP) for unaccounted job work being done as the whole process requires at least a month's time. The entire stock duly tallied with the books of account and there was no unaccounted finish stock or WIP which was found during the course of survey proceedings. There was no physical evidence of unaccounted grey fabrics during the course of survey proceedings. The presumption cannot be raised against the assessee in any case for the purpose of making the addition. The Assessing Officer has not pointed out any kind of discrepancy nor any corroborative evidence during the course of survey in support of any unwanted or unaccounted entries in the inward and outward registers. There is no receipt nor was any payment of alleged transaction of unaccounted job work transaction found. At the time of survey, everything was matched and tallied and the Assessing officer has not pointed out any discrepancy. The assessee also relied on certain case laws. The assessee also furnished the gross profit ratio and net profit ratio for earlier and

subsequent assessment years. The assessee also urged that only profit element in the alleged unaccounted job receipt may be added and not the addition @ 20% of job work of the whole receipt.

5. The Id. CIT(A) after considering the contents of assessment order and the written submissions of assessee has noted that a search was conducted in the case of Sumeet Industries Ltd. on 19/02/2015. The assessee was also covered under the search action being part of group concern. The Assessing Officer while passing the assessment order, made addition of Rs. 51,79,733/- by considering 20% of unaccounted income on account of unaccounted job charge receipt. Before him (Id. CIT(A)), the assessee stated that the addition cannot be made as the details found in the file data retracted from Purchi.exe, which is related to reprocessing work carried out by the assessee. The process of cycle runs through lot allotment, lot marketing, stitching, drum/jet process, setting on stanter, folding, batching, printing, loop for colour fixsession, washing etc. During the process cycle, until the process results are not received as per desired outcome it is reprocessed again and again. For reprocessing entry has to be made in Purchi.exe software until final job bill is not made. After final output as per required design and print is arrived and approved by customer, job bill is prepared for 100 Metre of grey work and final product is then dispatched which is finally recorded in FAS.exe software. The assessee claimed that if there is unaccounted job work done by the assessee then there would have been some unaccounted investment in the form of stock or other raw material, which would

have been found during the course of search/survey proceedings. However, the exact stock tallied with the regular books maintained by assessee and prayed for deleting the addition. The Id. CIT(A) recorded that on considering the contention of assessee, it is clear that the data found stored in file of Purchi.exe software does not match with the regular books of account, thus the Assessing officer has proved beyond doubt with detailed discussion in the assessment order that the data recorded in this file remains unaccounted for. The documentary evidences in the form of invoices and job bills are found and there were several differences between these two documents, which the Assessing Officer has narrated in detail in the assessment order. The entries have been made from about 50 parties by the DDIT (Inv.) to verify the contention of assessee about reprocessing work from whom enquiries were made, but no one had stated that they have given any reprocessing work to the assessee. All these details were analysed by the Assessing Officer and proved beyond doubt that the assessee was indulged in activities of doing job work which remained unaccounted. Thus, the contention that no unaccounted job work was done by assessee was not accepted and the corresponding submission of assessee was rejected. However, the Id. CIT(A) on the alternative contention of addition for considering gross profit of assessee for last preceding years as well as electricity consumption and other expenditure was considered. The Id. CIT(A) was of the view that the Assessing Officer was not correct in making addition by taking gross profit and these direct expenditure. The contention of assessee was that only profit element should be

taxed and not the addition @ 20% of job work of the whole receipt. The assessee claimed that 20% is too high and is not real. The assessee submitted average gross profit and net profit for six assessment years which was at 1.82% and the contention of assessee that it should not be more than average net profit of 1.82%. The Id. CIT(A) after considering the submission of assessee and by following the decision of Hon'ble Jurisdictional High Court in the case of CIT Vs President Industries 124 taxman 654 wherein it was held that only net profit embedded in sales/ receipt and not the whole sale proceeds itself, would be treated as undisclosed income of assessee. The Id. CIT(A) also followed the decision in the case of CIT Vs Samir Synthetics Mill 326 ITR 410, wherein it was held that addition on account of suppression of sale to the extent of profit be made. The Id. CIT(A) after compiling the turnover, net profit and gross profit ratio from A.Y. 2010-11 to 2015-16 held that the average net profit in all the years is 1.82%. The Id. CIT(A), accordingly restricted the addition of suppressed job work to the extent of 5% to the total turnover of Rs. 2.589 crores and granted substantial relief to the assessee. Further aggrieved, the assessee has filed the present appeal before this Tribunal.

6. We have heard the submissions of learned Authorised Representative (AR) of the assessee and the learned Commissioner of income tax- departmental representative (Id. CIT-DR) for the revenue and have also gone through the orders of the authorities below carefully. The Id. AR of the assessee submits that the Assessing officer made addition @ 20% of alleged suppressed job work

expenses on comparison of books of account and the data extracted from Purchi.exe software. The Assessing Officer failed to appreciate the reprocessing work undertaken by the assessee. The assessee explained that the data recollected from Purchi.exe software was not real. Entire stock tallied with the books of account and there was not unaccounted finished stock or WIP found during the course of search action. The Id. AR submits that the entire addition is liable to be deleted as there is no unaccounted job receipt.

7. In alternative submission, the Id. AR submits that the average net profit in six assessment years was only 1.82%. The Id. AR for the assessee submits that there are numerous decisions of Hon'ble Jurisdictional High Court wherein it has been categorically held that only profit element embedded on the disputed job charges may be taxed and not the substantial part of the transaction. The Id. AR for the assessee submits that the addition if any may be restricted to 1.82% only.
8. On the other hand, the Id. CIT-DR for the revenue submits that the Assessing Officer in the assessment order has given detailed finding about the discrepancies found during the search action in the data retracted from the Purchi.exe software and the books of account. The assessee has not shown unaccounted job work in his books of account. The Assessing Officer in a fair and reasonable manner, made addition of 20% of such unaccounted job receipt. The Id. CIT(A) restricted the addition to the extent of 5% of the unaccounted job work. The Id. CIT-DR for the revenue submits that the revenue could not file

appeal due to low tax effect in challenging such deletion of unaccounted/suppressed job work charges. The Id. CIT-DR for the revenue prayed for dismissal of appeal of assessee.

9. We have considered the rival submissions of both the parties and have gone through the orders of the authorities below carefully. We have also deliberated on various case laws referred and relied by the Id. CIT(A) in his order. We find that the Assessing Officer made addition of 20% on unaccounted job work charges by taking a view that the assessee has not shown actual job work done for the parties. If there was no processing work were carried out for these parties, how such work is reflected in the data recovered from computer back up as reprocessing work. The Assessing Officer was also of the view that on comparison of the parties which are common in the books and data recovered from the computer back up, the job work done is very higher than job work reflected in the books of account. Such summary was prepared in the assessment order. The assessee claimed that reprocessing is internal process of organization and data maintained in Purchi.exe software is only for organization the how can reprocessing work be done after the one month of dispatch of finished goods. Such action shows that the claim of reprocessing is not genuine. On the basis of such discrepancies, the Assessing Officer was of the view that there are two different set of data related to job works maintained in the computer and data maintained in Purchi.exe software is not accounted in the

books of account. The Assessing officer disallowed 20% of receipt of unaccounted job work by treating as 20% profit of such unaccounted job work.

10. As noted above, before the Id. CIT(A), the assessee has filed detailed written submission. The Id. CIT(A) after considering the submission of assessee noted that it is clear that the data found stored in file of Purchi.exe software does not match with the regular books of account, thus the Assessing officer has proved beyond doubt with detailed discussion in the assessment order that the data recorded in this file remains unaccounted. The documentary evidences in the form of invoices and job bills found, there were several differences between these documents, which the Assessing Officer has narrated in detail in the assessment order. The entries have been made from about 50 parties by the DDIT (Inv.) to verify the contention of assessee about reprocessing work from whom enquiries were made, but no one had stated that they have given any reprocessing work to the assessee. All these details were analysed by the Assessing Officer and proved beyond doubt that the assessee was indulged in activities of doing job work which remained unaccounted. Thus, the contention that no unaccounted job work was done by assessee was not accepted and the corresponding submission of assessee was rejected.

11. We find that the Id. CIT(A) on the alternative contention of addition for considering gross profit of assessee for last preceding years as well as electricity consumption and other expenditure was of the view that the Assessing Officer was not correct in making addition by taking gross profit and these direct

expenditure. The contention of assessee was that only profit element should be taxed and not the addition @ 20% of job work of the whole receipt. The assessee claimed that 20% is too high and is not real. The assessee submitted gross profit and net profit for six assessment years which was at 1.82% and the contention of assessee that it should not be more than average net profit of 1.82%. The Id. CIT(A) after considering the submission of assessee and by following the decision of Hon'ble Jurisdictional High Court in the case of CIT Vs President Industries and CIT Vs Samir Synthetics Mill (supra) and after compiling the turnover, net profit and gross profit ratio from A.Y. 2010-11 to 2015-16 held that the average net profit in all the years is 1.82%. The Id. CIT(A), accordingly restricted the addition of suppressed job work to the extent of 5% to the total turnover of Rs. 2.589 crores.

12. We independently examined the contention of both the parties and find that the Assessing Officer has given very detailed reasoning while making addition of 20% of unaccounted job charges. We further find that the Id. CIT(A) restricted the addition to the extent of 5% to the extent that only profit element embedded in such unaccounted receipt. It is settled law under the income tax proceeding that only income component is to be taxed and not the substantial part of the transaction. Considering the fact that the Id CIT(A) has already granted substantial relief to the assessee and directed to tax only to the extent of 5% of Rs. 2.589 Crore. In our view the Id CIT(A) has already granted substantial relief to the assessee, which we affirm. Hence, we do not find any merit in further

reducing the addition which has already been reduced substantially by the Id. CIT(A). Therefore, we do not find any justifiable reason to given further relief to the assessee.

13. In the result, this appeal of assessee is dismissed.

14. Now we take appeal for the A.Y. 2014-15 being IT(SS)A No. 68/Srt/2021 and appeal for A.Y. 2015-15 being ITA No. 157/Srt/2021 wherein the assessee has raised similar grounds of appeal as raised in appeal for AY 2013-14, except variation of addition. In both these appeals, the grounds, facts and submissions of both the parties are identical to the grounds, facts and submissions made in IT(SS)A No. 67/Srt/2021 for the A.Y. 2013-14. Considering the fact that we have dismissed the appeal of assessee in A.Y. 2013-14 by upholding the order of Id. CIT(A), therefore, considering the principal of consistency the grounds of appeal of in IT(SS)A No. 67/Srt/2021 for the A.Y. 2013-14 are dismissed with similar directions.

15. In the result, all these three appeals of the assessee are dismissed.

Order pronounced on 17/08/2022, in open court and result was also placed on notice board.

Sd/-
(Dr. ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 17/08/2022

**Ranjan*

Copy to:

1. Assessee –

2. Revenue -
3. CIT(A)
4. CIT
5. DR
6. Guard File

By Order

Sr. Private Secretary, ITAT Surat