

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri K. Narasimha Chary, Judicial Member

ITA Nos.494/Hyd/2018		
Assessment Year: 2013-14		
M/s. NECX (P) Ltd, Nacharam, Hyderabad PAN: AACCN0219	Vs.	Income Tax Officer Ward 16(2) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Smt. Shilpa Maniyar, CA	
Revenue by:	Shri A.P. Babu, DR	
Date of hearing:	28/09/2022	
Date of pronouncement:	29/09/2022	

ORDER

Per R.K. PANDA, A.M

This appeal filed by the assessee is directed against the order dated 15.12.2017 of the learned CIT (A)-4 Hyderabad relating to A.Y 2013-14.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the learned CIT (A) in sustaining the addition of Rs.1,23,42,928/- made by the Assessing Officer on account of difference between Form 26AS and P&L A/c and another amount of Rs.7,74,970/-on account of unexplained cash deposit.

3. Facts of the case, in brief, are that the assessee is a company engaged in distribution and sales of I.T. products. It is also engaged in providing AMC services in respect of computer hardware and other related I.T. products. It filed its return of income declaring total income at Rs 23,66,524/- under the normal provisions and income of Rs.20,16,550/- under MAT provisions. The case was selected for scrutiny and statutory notices u/s 143(2) were issued and served on the assessee to which the A.R of the assessee appeared before the Assessing Officer and filed the requisite details from time to time.

4. During the course of assessment proceedings, the Assessing Officer noted from Form 26AS that the following credits are appearing against the name of the assessee company:

1. 194C	Rs. 83,87,296
2. 194H	Rs. 31,25,400
3. 194J	Rs.5,47,85,867
4. 194I	<u>Rs. 38,640</u>
Total	Rs.6,63,37,203
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5. He noted that barring receipts u/s 194I, the receipts from services is Rs.6,62,98,563/-. However, the assessee has credited receipts of Rs.4,75,27,140/- from services in the return of income. He, therefore, asked the assessee to reconcile the difference of Rs.1,87,71,423/-. It was submitted that the difference arose due to accounting policy which the Auditor considered as per Accounting Standard while finalizing the accounts of the company for that particular year. Since the Assessing Officer was not satisfied with the arguments advanced by the assessee, he again asked the assessee to substantiate the same. It was submitted that the Auditor considered the discount allowed by various customers to the tune of Rs.1,87,36,426/- for

that financial year and the same was not claimed as expenditure in the P&L A/c. It was submitted that even after considering the discount details, still there is undisclosed income of Rs.73,667/- out of which part of Rs.38,640/- is of interest income of that year and balance of Rs.34,997/- was unexplainable income. The assessee also enclosed a letter issued by WIPRO Ltd.

6. However, the Assessing Officer was not satisfied with the arguments advanced by the assessee. He noted that M/s. Wipro Ltd has certified that an amount of Rs.5,31,614/- has been deducted against the billed amount of Rs.5,13,61,714/- which roughly works out to 1%. So far as the other parties are concerned, he noted that the assessee did not file any confirmations, but only enclosed ledger copies of discounts. The Assessing Officer noted from the details furnished by the assessee that in respect of M/s. Acer India, the gross receipts received under services is Rs.3,50,450/- and the discount as per the ledger copy furnished by the assessee is Rs.31,77,220/-. Similarly, in respect of Microsoft, the gross receipts received under service is Rs.3,28,325/- and the discount as per the ledger furnished by the assessee is Rs.28,73,354/-. Similarly, in respect of Wipro Ltd, as per the ledger submitted by the assessee, the discount is Rs.54,62,702/- whereas M/s. Wipro Ltd has confirmed only an amount of Rs.5,31,614/-. In view of the above, the Assessing Officer held that the assessee could not reconcile the difference and accordingly made addition of Rs.1,87,71,423/- being the difference of the turnover as per Form 26AS and turnover admitted in the return of income.

7. The Assessing Officer similarly noted that the assessee has made cash deposits in the Banks to the tune of Rs.7,74,790/. On being asked by the Assessing Officer to explain the source of the same, the assessee did not explain the sources for making the above deposits. He, therefore, made an addition of Rs.7,74,970/- to the total income of the assessee as unexplained deposits and brought to tax.

8. In appeal, the learned CIT (A) confirmed the addition of Rs.1,87,71,423/- made by the Assessing Officer by observing as under:

“4.2 I have carefully considered the facts of the case, assessment order and the submissions of the appellant. In this case, there is a difference as Form 26AS and Profit & Loss per Account of Rs.1.87.71.423/- which was not reconcile by the appellant, therefore, the Assessing Officer added the same as undisclosed income. During the appellate proceedings, the appellant submitted the same explanation which was submitted before the Assessing Officer and at the same time furnished the details of Form-26AS along with TDS deduction details and customers name details. As per the appellant the service charges amounting to Rs.5,98,70,068/- in place of Rs.6,62,98,563/ adopted by the Assessing Officer. I the assessment order, the Assessing Officer has mentioned the service receipts of Rs.6.63.37,203/- as per Form 26AS. Therefore, the Assessing Officer is directed to verify and adopt the correct service receipts as per Form-26AS and reconcile the difference amount of Rs.64,28,495/- Further, there is a difference of Rs.1,23,42,928/- (Rs.1,87,71,423 - Rs.64.28,495). Since the appellant himself considered the Service charges receipts as Rs.5,98,70,068/- and no other explanation were offered in addition to which the same explanation offered before the Assessing Officer. Therefore, the addition made by the Assessing Officer to the extent of Rs.1,23,42,928/- confirmed.”

8.1 So far as the addition of Rs.7,74,970/- towards cash deposit is concerned, he also sustained the addition made by the Assessing Officer by observing as under:

“5.2. I have carefully considered the facts of the case, assessment order and the submissions of the appellant. With regard to the unexplained deposits of Rs.7,74,970/-, the appellant except stating that they were the internal branches cash sales and was deposited in the bank but

failed to submit to reconcile this. Therefore, the addition made of Rs.7,74,970/- is confirmed".

9. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

10. The learned Counsel for the assessee strongly challenged the order of the learned CIT (A) in sustaining the addition made by the Assessing Officer. Referring to page 23 of the Paper Book, she drew the attention of the Bench to the reconciliation of income as per P&L A/c and Form 26AS. Referring to page 24 of the Paper Book, she drew the attention of the Bench to the TDS deducted including service tax mentioned in the invoice. Referring to page 25 of the Paper Book, she drew the attention of the Bench to the TDS deducted by the deductors on the sale of products which is offered by the assessee as turnover from sale of products. Referring to page 26 of the Paper Book, she drew the attention of the Bench to the cases where the assessee has offered both the sales and service income being received from the same client and the turnover as per P&L A/c is more than that is mentioned in form 26AS. She submitted that although the assessee submitted the reconciliation statement so made before the learned CIT (A), however, the learned CIT (A) without going through the details, sustained the addition which is not justifiable.

10.1 So far as the cash deposit of Rs.7,74,970/- is concerned, she submitted that the assessee has also a branch at Vizag and an amount of Rs.2,18,950/- was deposited on 1.8.2012, an amount of Rs.3,53,070/- on 24.9.2012 and an

amount of Rs.2,02,950/- was deposited on 27.2.2013 out of cash sales.

10.2 Referring to pages 42 to 44 of the Paper Book, the learned Counsel for the assessee drew the attention of the Bench to the cash received from different parties running to 69 in numbers from whom the cash was received which was deposited in the Bank A/c. She accordingly submitted that the addition made by the Assessing Officer and sustained by the learned CIT (A) should be deleted.

11. The learned DR, on the other hand, heavily relied on the order of the Assessing Officer and the CIT (A). He submitted that the assessee could not reconcile the difference between P&L A/c and 26AS for which the addition was made of Rs.1,23,42,928/-. Similarly due to non-substantiation of the sources of the cash deposits in the Bank A/c, the learned CIT (A) sustained the addition of Rs.7,74,970/- made by the Assessing Officer. He submitted that the order of the learned CIT (A) should be upheld. In his alternate contention, he submitted that the matter may be restored to the file of the Assessing Officer.

12. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. So far as the first addition of Rs.1,23,42,928/- is concerned, we find the Assessing Officer made the addition on the ground that there is a difference in Form 26AS and P&L A/c of the assessee for an amount of Rs.1,87,71,423/- which was not reconciled by the assessee. We find the learned CIT (A) sustained the addition made by the

Assessing Officer, the reasons of which have already been reproduced in the preceding paragraph. It is the submission of the learned Counsel for the assessee that although full reconciliation was filed before the learned CIT (A), however, the same was not properly appreciated by the learned CIT (A), therefore, the addition should be deleted. We find the assessee before the Assessing Officer has stated that the difference is due to accounting policy adopted by the Auditors. Even in the submission given before the Assessing Officer, still there is reconciliation difference of Rs.34,907/-. We find that the assessee has filed certain details before the learned CIT (A) reconciling the difference. However, we find the learned CIT (A) has not given any finding on such reconciliation while sustaining the addition. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to give one more opportunity to the assessee to substantiate his case by reconciling the difference between the P&L A/c and Form 26AS and decide the issue as per fact and law. We hold and direct accordingly. Thus, the first issue raised by the assessee in the grounds of appeal is allowed for statistical purposes.

13. So far as the addition of Rs.7,74,970/- on account of non-reconciliation of cash deposit is concerned, we find from the Paper Book filed by the assessee that although the assessee has not filed any details before the Assessing Officer, however, the assessee has filed the invoice wise details on which cash was received, details of which are placed at pages 42 to 44 of the Paper Book. It is also an admitted fact that the number of invoices running to 69 in number shows that the assessee has raised the

invoices on which cash was received which was deposited in the Bank totaling to Rs.2,18,950/- on 1.8.2012, Rs.3,53,070/- on 23.9.2012 and Rs. 2,02,950/- on 27.2.2013. The turnover of the assessee has not been disputed by the Assessing Officer. Since all these invoices are part of the total sales, therefore, we are of the considered opinion that the learned CIT (A) is not justified in sustaining the addition of Rs.7,74,970/-. Accordingly, the 2nd issue raised by the assessee is allowed and the Assessing Officer is directed to delete the addition.

14. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 29th September, 2022.

Sd/-

Sd/-

(K.NARASIMHA CHARY) JUDICIAL MEMBER	(R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 29th September, 2022.

Vinodan/sps

Copy to:

S.No	Addresses
1	M/s. NECX Private Ltd, Plot No.5-A/4 Road No.1 Survey No.48, Near Times of India, IDA, Nacharam RR Distt. 500076
2	Income Tax Officer Ward 16(2) Hyderabad
3	CIT (A)-4, Hyderabad
4	Pr. CIT-4, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order