

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted through E-Court at Ahmedabad)**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER AND
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA Nos.103 & 104/RJT/2019
Assessment Years: 2014-15 & 2015-16**

Dy. Commissioner of Income Tax, vs.
Central Circle-2, Rajkot.

M/s. Arsh Steel,
103, Karan Square,
Shishuvihar Circle,
Bhavnagar – 364 001.
[PAN – AAQFA 1002 L]
(Respondent)

(Appellant)

Assessee by : Shri Mehul Ranpura, AR
Revenue by : Shri B.D. Gupta, D.R.

Date of hearing : 26.09.2022
Date of pronouncement : 28.09.2022

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

These appeals are filed by the Revenue against two different orders, both dated 8th February, 2019, passed by the CIT(A)-11, Ahmedabad for the Assessment Years 2014-15 & 2015-16.

2. The Revenue has raised the following grounds of appeal :-

ITA No.103/RJT/2019 for A.Y. 2014-15

- “1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.13,17,936/- out of total addition of Rs.15,50,513/- made on account of unaccounted purchases.
2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in holding that the profit on such unexplained transaction should be taxed as the purchases were happened to make on day to day basis for generation of receipts for the

business, since the assessee failed to explain the difference of Rs.15,50,513/- as shown excess in VAT returns.

- 3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.9,92,447/-out of total addition of Rs.11,67,5857- made on account of unaccounted investment.*
- 4. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in holding that the unaccounted sales and purchases of expenses is running parallel and it is continuous process so that fund realized from sale is funded for next cycle of purchases and expenses whereas in the statement recorded of accountant of M/s Arsh Steel, Mr. Vahabbhai Siddiqbhai Bhila, he categorically stated the payment as per vouchers books and note books made to workers/employees in cash.*
- 5. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition without considering the facts that during the post survey investigation assessee submitted that the expenses booked in these annexure were made in cash not recorded in the books of account.*
- 6. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.15,11,747/- out of total addition of Rs.17,78,526/- made on account of unaccounted expenditure u/s.69C.*
- 7. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in holding that the unaccounted sales and purchases of expenses is running parallel and it is continuous process so that fund realized from sale is funded for next cycle of purchases and expenses whereas the assessee failed to brought on record cogent evidence in support to its claim.*
- 8. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.23,66,716/- out of total addition of Rs.27,84,372/- made on account of unaccounted expenditure u/s.69C.*
- 9. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.21,25,140/- out of total addition of Rs.22,54,430/- made on account of unaccounted expenditure u/s.69C.*
- 10. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.13,62,600/- made on account of unaccounted investment u/s.69.*

11. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the A.O.*
12. *It is, therefore, prayed that the order of the Ld. CIT(A) be set aside and that of the A.O. be restored to the above extent."*

ITA No.104/RJT/2019 for A.Y. 2015-16

- "1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.34,89,730/- made on account of Unaccounted Expenditure.*
2. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.8,60,215/-made on account of Unaccounted Expenditure.*
3. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in holding that the unaccounted sales and purchases of expenses is running parallel and it is continuous process so that fund realized from sale is funded for next cycle of purchases and expenses whereas the assessee failed to brought on record cogent evidence in support to its claim.*
4. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.50,85,550/- out of total addition of Rs.59,83,000/- made on account of Unaccounted sale of stock in trade.*
5. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.25,95,233/- out of total addition of Rs.33,43,792/- made on account of Unaccounted Investment.*
6. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in holding that the unaccounted sales and purchases of expenses is running parallel and it is continuous process so that fund realized from sale is funded for next cycle of purchases and expenses whereas in the statement recorded of accountant of M/s Arsh Steel, Mr.Vahabbhai Siddiqbhai Bhila, he categorically stated the payment as per vouchers books and note books made to workers/employees in cash.*
7. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition without considering the facts that during the post survey investigation assessee submitted that the expenses booked in these annexure were made in cash not recorded in the books of account.*

8. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the A.O.*
9. *It is, therefore, prayed that the order of the Ld. CIT(A) be set aside and that of the A.O. be restored to the above extent."*

3. When these appeals were called out for hearing, Ld. AR submitted that the present appeals of the Revenue need to be dismissed on account of low tax effect in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019 whereby the monetary limits for filing the appeal by the Revenue before the Tribunal was enhanced from Rs.20 lakhs to Rs.50 lakhs. This instruction is applicable to the pending cases also. Therefore, the present appeals of the Revenue are liable to be dismissed as non-maintainable as held by this Tribunal in the case of ITO Vs. Dinesh Madhavlal Patel in ITA No.1398/Ahd/2004 for AY 1998-99 vide a consolidated order dated 14.08.2019.

4. The learned DR fairly admitted that the tax effect involved in these appeals are less than the limit prescribed by the aforesaid CBDT Circular.

5. We have heard both the parties and perused all the relevant material available on record. As the Ld. AR rightly contends, these appeals of the Revenue are no longer maintainable in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019. The mandatory limit for cases in which Revenue can challenge the relief granted by the CIT(A) now stands enhanced to Rs.50 lakhs. This concession granted by the Central Board of Direct Taxes (CBDT) is retrospective in effect inasmuch as it applies to all pending appeals as well. In view of the above position, the appeals of the Revenue are no longer maintainable and must be dismissed as such.

6. It is, however, made clear that on re-verification at the end of the Assessing Officer it comes out that the tax effect of more than Rs.50 lakhs is being involved in the appeal or the appeal falls within the exemption clause of the Circular, then the Revenue will be at liberty to file Miscellaneous

Application to recall the Tribunal order. The application should be filed within time limit prescribed in the Act.

7. In the result, both the appeals of the Revenue are dismissed due to low tax effect.

Order pronounced in the open Court on this 28th day of September, 2022.

Sd/-
(ANNAPURNA GUPTA)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 28th day of September, 2022

PBN/*

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Rajkot Bench, Rajkot