

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

VIRTUAL COURT

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. No. 342/Asr/2018
Assessment Year: 2012-13

M/s Veteran Engineers
Industrial Estate Zakura
Srinagar

[PAN: AAGFV 8557R]
(Appellant)

Vs. Income Tax Officer,
Ward-3(3), Srinagar

(Respondent)

Appellant by : Sh. Bashir Ahmad Lone, CA
Respondent by: Sh. S. M. Surendranath, Sr. DR

Date of Hearing: 10.10.2022
Date of Pronouncement: 13.10.2022

ORDER

Per Dr. M. L. Meena, AM:

This appeal has been filed by the assessee against the order dated 09.03.2018 passed by the Ld. Commissioner of Income Tax (Appeals)-2, Amritsar (Camp at Jammu) in respect of Assessment Year 2012-13,

wherein the assessee has challenged the estimation of the receipts and unexplained deposits in bank account.

2. At the outset, the Id. counsel for the assessee has submitted that the assessee Firm engaged in the business of manufacturing of hardware pipes and also erection of these pipes at supply sites where the assessee has declared sales/turnover under VAT and under General Sales Tax Act, and the assessee has declared net profit rate @ 8% on presumptive basis under the provisions of section 44AD of the Act. The Id. AR argued that the Id. AO has enhanced turnover of the assessee by Rs.7,77,499/- and made addition of Rs.62,200/- by applying net profit rate of 8% of the said enhanced turnover computing the contract receipt of Rs.19,35,550/- as per Form 26AS without bringing any corroborative material on record.

3. The Id. DR stands by the impugned order.

4. We have heard both the sides, perused material on the record and the impugned order. It is evident from the assessment order that the AO has computed the gross receipts comprising of business receipts, contract receipts and professional receipts from the details filed by the assessee from the AIR data available on ITD and gross receipt declared in the return. The Id. CIT(A) has rightly observed that since the AO has taken the figures

of gross receipt declared in the VAT return filed by the AO and the AIR has shown on the page 2 of the assessment order at Rs. 29,60,250/-. Thus, the contract receipts, business receipts and professional receipts were all corroborated by the amount of TDS deducted against these payments in the credit available as prepaid taxes in Form 26AS. Thus, the assessee has under stated gross receipt by an amount of Rs.7,77,499 (29,60,250/- to 21,82,751/-) and the AO applied net profit rate of 8% on these understated receipt of Rs.7,77,499/- to correctly workout the understated income of Rs.62,200/-.

5. It is pertinent to mention that the assessee has not produced reconciliation of the contract receipt per se Form 26AS computed by the AO in the assessment order, and that the contention of the Id. AR that actual contract turnover as per books of the assessee was Rs.12,02,351/- stands declared before Indirect Tax Authorities are not supported by any documentary evidence. Either before the authorities below or before us. In rebuttal to Form 26AS relied upon by the AO and the Id. CIT(A). Thus, we find no merit and substance in the arguments of the counsel on the issue of profit computed by the AO on the contract receipt under stated as above.

6. Accordingly, we find no infirmity and perversity in the order of the Id. CIT(A) in confirming the addition of Rs.62,200/- as understated income on receipt of Rs. 7,77,499/-, therefore, this addition of Rs.62,200/- is confirmed.

7. Next issue pertains to addition of Rs.14,31,486/- on account of unexplained deposits in the bank account.

8. During the assessment proceedings, the AO asked the assessee to explain the excess deposits of Rs.14,31,486/- in the bank account to the business turnover computed by the AO, at Rs.29,60,250/-. The assessee has submitted before the AO that the excess deposit in the bank account is related to the unrealized debtors, however, he failed to furnish the name, address and PAN number of such debtors for further verification. The AO stated that assessee also fails to furnish the copy of the ledger account, and balance sheet reflecting the debtors for the previous financial year 2010-11. Accordingly, the AO held that excess deposit of Rs.14,31,486/- as undeclared profit of the assessee from undisclosed source and added to the return of income.

9. The Id. CIT(A) has also observed that the appellant assessee fails to file the confirmation from the respective unrealized debtors for the relevant

financial year under consideration. The Id. CIT(A) observed that since the assessee failed to furnish the copy of the account, name, address and PAN number of the disputed debtors claimed to be realized during the year under consideration before the AO and the Id. CIT(A), as well. Accordingly, the Id. CIT(A) had held that the claim of the appellant that the deposits of Rs.14,31,486/- in the bank account of the appellant a/c no. CC248 represents realization of old debts remained unverified. Thus, he has confirmed the said addition of Rs.14,31,486/- u/s 69 of the Act.

10. The Id. counsel submitted that from the bank account and balance sheet of the current and previous year, it is clearly seen that there is a reduction in debtors and cash credit limits. He submitted that the outstanding CC limit as on 31.03.2011 is Rs.50,06,218.31 Cr. against outstanding CC limit of Rs.18,48,699/- Cr. as on 31.03.2022. Further the said fact is also apparent from the balance sheet as against the debtors of Rs.56,64,660/- as on 31.03.2011, as against Rs.34,55,675/- only as on 31.03.2012. Thus, he explained that excess bank credit or previous debtors and the said fact is also declared from the bank statement and all the debtors stands received through cheque payments and he contended that the entire additions is based on presumptions. When he was asked to produce the copy of the bank account reflecting the CC limit and balance

sheet and statement of account for two years, i.e., financial year 2010-11 and 2011-12 and the copy of the ledger account before the bench, he has shown inability, in producing the same. Rather, he requested to restore the matter to the file of the AO to examine the issue afresh after granting an adequate opportunity of being heard on the issue of unrealized debtors.

11. The Id. DR stands by the impugned order, however, he has no objection to the request of the assessee to remand back the matter to the file of the AO on the issue of assessee's claim of examination unrealized debtors at Rs. 14,31,486/-.

12. Having heard both the sides, perusal of record, the written submission and the impugned order, it is seen that there was an excess deposit of Rs.14,31,486/- in the bank account of the assessee which is claimed to be received from unrealized debtors during the year under consideration, however, the assessee has failed to file confirmation in the form of name, address, PAN number, copy of ledger account and bank a/c of the respective unrealized debtors in support, to explain the source of such excess deposit in bank account even if it is claimed by the appellant from unrealized debtors. However, considering the request of the assessee that he may be granted one more opportunity to explain and prove its claim

before the Assessing Officer, the matter is remanded back to the file of the AO with the direction to examine the issue of excess deposits in the bank accounts to the business turnover being claimed by the assessee as unrealized amount from the debtors afresh after granting adequate opportunity of being heard. The assessee is directed to furnish all the necessary information required by the AO for verification of the claim of the unrealized debtors in the Form of copy of ledger account, name, address, PAN number, bank account and ITRs of the respective debtors under dispute or any other information may be required in the course of assessment proceedings. Further, the assessee shall cooperate in the proceedings before the AO. Accordingly, the issue of addition of Rs.14,31,486/- on account of excess deposit in bank, being claimed by the assessee from unrealized debtors is allowed for statistical purposes.

13. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 13.10.2022

Sd/-
(Anikesh Banerjee)
Judicial Member

Sd/-
(Dr. M. L. Meena)
Accountant Member

GP/Sr/PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:

- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

True Copy
By Order