

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH, 'B' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.252/PUN/2020

निर्धारण वर्ष / Assessment Year : 2014-15

Shrikrupa Services Private Limited, 201, Prestige plaza-II, Opp. Formica Co., Akurdi, Pune 411 035 Maharashtra PAN : AAHCS2470A	Vs.	ACIT, Circle-10, Pune
Appellant		Respondent

Assessee by Shri Pramod Shingte  
Revenue by Shri M.G. Jasnani

Date of hearing 20-10-2022  
Date of pronouncement 20-10-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order dated 29-11-2019 passed by the Id. CIT(A)-13, Pune in relation to the assessment year 2014-15.

2. The assessee is aggrieved by the addition of Rs.1.00 crore, which was agreed during the course of survey but later on retracted.

3. Briefly stated, the facts of the case are that the assessee in service industry. A survey was conducted u/s.133A of the Act on

14-10-2013. During the course of survey, the assessee agreed for an addition of Rs.50.00 lakh towards interiors and furnishing to a particular premises and a further addition of Rs.50.00 towards payments in cash for business promotion/sales included in labour costs. The agreed amount of Rs.1.00 crore was not included in the total income offered in the return. The AO made the addition, which came to be affirmed in the first appeal. Aggrieved thereby, the assessee has approached the Tribunal.

4. We have heard the rival submissions and gone through the relevant material on record. The first addition of Rs.50.00 lakh is the payments made to labour in cash as business promotion for soliciting business. In response to question no.40, the director of the assessee submitted in the statement recorded u/s.133A that pages 53 and 54 of bundle no.3 contained details of payments made in cash towards business promotion/sales commission. These payments were admitted to have been made in order to source business and contracts. In answer to question no.41, the director of the assessee submitted that most of these payments were made to labours and workers at the respective sites and in answer to question no.42, the assessee agreed for an addition of

Rs.50.00 lakh towards these payments made outside the books of account. In the same question, the assessee also agreed for an addition of Rs.1.00 crore towards similar payments made to labour for sales promotion for the immediately preceding assessment year, which was also not offered for taxation. When the assessment for the preceding year was taken up, the assessee contended that the addition should be based only towards the actual vouchers found and not on agreed basis. The AO accepted the assessee's contention and restricted the addition to Rs.14,34,500/- on the basis of actual vouchers found. It is trite that no addition, based simply on an agreement, can be made unless incriminating material is found during the course of survey backing such an agreement, as has been done by the AO for the immediately preceding assessment year. Following such view, we set-aside the impugned order and remit the matter to the file of the AO for restricting the addition, after verification, to the extent of such cash vouchers found during the course of survey which were not recorded in the books of account. The assessee will be allowed an opportunity of hearing before taking a final call in this regard.

5. The second addition of Rs.50.00 lakh, which was made by the AO, is again based on the agreement with the assessee towards furnishing, interior decoration and civil work carried out at the office premises located at Prestige Plaza-2, office No.201/201A, Opp. Formica(I) Ltd., Mumbai-Pune Road, Akurdi, Pune. In response to question no.37, the director of the assessee submitted during the course of survey that the office premises was jointly owned by him and his brother, which was let out as a bare premises to the assessee company. All the furnishing, interior decoration and civil work activities were carried out by the assessee company. In response to question no.38, it was submitted that *“all the furnishing and interior decoration work, including civil work were carried out in the past six months by the company”*. In answer to question no.39, the estimate of total expenditure incurred on this work was given in the range of Rs.50.00 lakh, for which surrender sum was made, which was again retracted later on. The ld. AR contended that the assessee maintained books of account and the expenditure referred to in the statement was recorded in the books of account. Simply because some furnishing or interior decoration including

civil work costs have been recorded in the books of account, it would not mean that the same pertained to the premises at Prestige Plaza-2, office No.201/201A, Opp. Formica(I) Ltd., Mumbai-Pune Road, Akurdi, Pune. The assessee specifically submitted that all the furnishing, interior decoration and civil work was done in the past six months by the company and the estimate of expenditure on this work was given at Rs.50.00 lakh. Going with our view anent to the first agreed addition, here also we cannot go with the mere surrender made by the assessee during the survey. However, the distinguishing feature here is the evidence of the agreed addition, being, the furnishing, interior and civil work actually carried out in the said premises which was existing at the time of survey, whose estimate of expenditure incurred by the assessee was given at Rs.50.00 lakh. In the given circumstances, we set-aside the impugned order on this score and direct the AO to find out the costs incurred as per the books of account on interior decoration, furnishing and civil work carried out in the above referred premises in the period of six months prior to the date of survey. Such costs entered in the books of account should be reduced from the sum of Rs.50.00 lakh, being,

the estimate of actual costs incurred by the assessee on the premises. The balance amount should be added. Needless to say, the assessee will be allowed a reasonable opportunity of hearing.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 20<sup>th</sup> day of October, 2022.

Sd/-  
**(S.S. VISWANETHRA RAVI)**  
**JUDICIAL MEMBER**

Sd/-  
**(R.S.SYAL)**  
**VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 20<sup>th</sup> October, 2022  
सतीश

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-13, Pune
4. The Pr. CIT-5, Pune
5. DR, ITAT, 'B' Bench, Pune
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	20-10-2022	Sr.PS
2.	Draft placed before author	20-10-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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