

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.1099/Ahd/2018
Assessment Year : 2013-14

Maruti Nutritious Food Ltd. Maruti House Opp. Air India, Ashram Road Ahmedabad-380 009 PAN: AACCM 7574 M	Vs	The ITO Ward-2(1)(4) Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		-None-
Revenue by :		Shri Ravindra, Sr.DR

सुनवाई की तारीख/Date of Hearing : 18 /10/2022
घोषणा की तारीख /Date of Pronouncement: 21 /10/2022

आदेश/ORDER

This appeal is filed by the Assessee against the order dated 11/06/2019 passed by the Commissioner of Income-tax (Appeals)-2, Ahmedabad ["CIT(A)" in short] for Assessment Year 2013-14.

2. Grounds of appeal are as under:

The order of learned Commissioner of Income tax (Appeals) -2 [CIT(A)] is bad in law as well on facts on the following grounds;

(1) *The learned CIT(A) has erred in levying penalty of Rs.6,19,240 on enhancement of income Rs.20,04,000 U/s.68 in his appellate order dt. 28/09/2017. In as much as the amount of enhancement made is not credit or deposit U/s.68 & same is not claimed as deduction in P&L A/c.*

(2) The learned CIT(A) had already confirmed disallowance made by A.O. of Depreciation of Rs.12,02,400 on assets/Computers/Printers purchased of Rs.20,04,000. Therefore, Enhancement of purchase of assets is not receipt of money of deposit/credit U/s.68. Hence penalty U/s.271(1)(c) is wrongly levied.

3. The assessment u/s 143(3) of the Income Tax Act, 1961 was completed by the Assessing Officer on 18.03.2016 by making addition of the claim of depreciation of Rs. 12,67,282/-. The assessee filed appeal before the CIT(A) and the CIT(A) vide order dated 28.09.2017 enhanced the income relating to bogus credit of Rs. 20,04,000/- in the name of M/s K. Shyam Lal & Co. in the books of accounts u/s 68 of the Act. During the course of appellate proceedings, penalty u/s 271(1)(c) of the Act was initiated for furnishing of inaccurate particulars of its income in respect of credit of Rs. 20,04,000/- in the name of M/s K. Shyam Lal & Co. as the credit was not found to be genuine. The CIT(A) vide order u/s 271(1)(c) of the Act levied penalty on account of credit of Rs. 20,04,000/-.

4. Being aggrieved by the order of the CIT(A) under Section 271(1)(c) of the Act, the assessee filed appeal before us.

5. At the time of hearing, none appeared on behalf of the assessee despite giving notice at the address given in Form No. 36 of the appeal memo. No new address was intimated to the registry by the Assessee. Hence, we are proceeding on the basis of the submissions of the assessee reproduced by the CIT(A) in the order as submissions before us.

6. The Ld. DR relied upon the penalty order passed by the CIT(A).

7. Heard Ld. DR and perused all the relevant material available on record. It is pertinent to note that the penalty under Section 271(1)(c) of the Act was levied on credit of Rs. 20,04,000 found to be non genuine by the CIT(A) thereby enhancing the said amount from the original assessment order dated 18.03.2016. The CIT(A) has observed that the assessee furnished inaccurate particulars of income. But after going through the records, it can be seen that the said amount was credited in the books of accounts whether it is genuine or not cannot be the test of determining that the said particulars were inaccurately furnished by the Assessee before the Revenue authorities. Therefore, the penalty under Section 271(1)(c) of the Act does not sustain. The appeal of the assessee is allowed.

8. In result, appeal of the assessee is allowed.

Order pronounced in the Court on 21st October, 2022 at Ahmedabad.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad, Dated 21/10/2022

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-2, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad