

आयकर अपीलीय अधिकरण
मुंबई पीठ "ई" मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री ओम प्रकाश कांत, लेखा सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E" BENCH
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
आ. आ. सं. २०१७/मुंबई/२०२२ (नि. वं. २०१५-१६)
ITA NO.2017/MUM/2022 (A.Y.2015-16)

Triton Logistics and Maritime Pvt. Ltd अपीलार्थी/Applicant
610, A-Wing Kohinoor City Complex Mall,
Kiro Road, Off. L.B.S. Marg, Kurla (W)
Mumbai-400 070
PAN No. AABCT4018R

बनाम Vs.

Deputy Commissioner of Income Tax प्रतिवादी/Respondent
14 (3) (1), Room No.470
Aayakar Bhavan, M.K. Road,
Mumbai-400 020

अपीलार्थी द्वारा / Applicant by : Shri Ajay Singh
प्रतिवादी द्वारा / Respondent by : Shri Ashish Heliwal, Sr. AR
सुनवाई की तिथि / Date of hearing : 15/11/2022
घोषणा की तिथि / Date of pronouncement : 23/11/2022

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals) [hereinafter referred to as "CIT(A)], National Faceless Appeal Centre, Delhi dated 16/06/2022 for the assessment year 2015-16.

2. The assessee in appeal has raised solitary ground assailing the addition of Rs.7,44661/- on account of mismatch in turnover as per AIR and the Books of account.



3. Shri Ajay Singh appearing on behalf of the assessee submitted that the assessee is engaged in the business of clearing and forwarding. In scrutiny assessment proceedings, the Assessing Officer (AO) observed that there was mismatch in the turnover as per AIR information and the books of the assessee. The AO identified 7 parties and issue notice u/s 133(6) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") only one of the parties responded to the notice and confirmed the transactions to the assessee and also furnished copy of the TDS certificates. The total amount remained to be reconciled was Rs.7,44,661/-. The AO made addition of aforesaid amount. Aggrieved by the assessment order dated 28/11/2017 passed u/s 143 (3) of the Act. The assessee filed appeal before the CIT(A), but remained unsuccessful, hence, the present appeal.

4. The learned Authorised Representative (AR) of the assessee submits that during the period relevant to the assessment year under appeal, the assessee had total turnover of Rs.10.90 crores. The assessee was able to reconcile entire transactions except transactions aggregating to Rs.7,44,661/-. Since, the assessee has been able to reconcile substantial part of the transactions, no addition is warranted in respect of miniscule part of the transactions which remained to be reconciled. The AO has not raised any doubt over the books of assessee or the assessee's nature of business. The learned AR stated at Bar that the assessee has not taken credit of the TDS in respect of unreconciled transactions. The learned AR further pointed that in the preceding assessment years that is AY 2012-13 and 2013-14 similar addition was made by the AO in respect of small portion of unreconciled transactions. The CIT(A) in the order for the assessment year 2012-13 and thereafter for the assessment year 2013-14 deleted the addition following



decision of Mumbai Bench of the Tribunal in the case of S. Ganesh Vs. ACIT in ITA No.527/MUM/2010 which was subsequently upheld by the Hon'ble Bombay High Court in CIT Vs. S. Ganesh in ITA NO.1930/MUM/2012 decided on 18/03/2014.

5. Per contra, Shri Ashish Heliwal representing the Department vehemently defended the impugned order and prayed for dismissing the appeal of the assessee. The learned Departmental Representative (DR) submits that the assessee has failed to reconcile transaction to the tune of Rs.7,44,661/-. Hence, the AO rightly made addition of the aforesaid amount.

6. Both sides heard, orders of the authorities below examined. The solitary issue in appeal is with respect to addition made on account of mismatch of turnover as per AIR data and the turnover declared in the books of assessee. The total turnover of the assessee is to the tune of Rs.10.90 crores. The assessee was able to reconcile substantial part of turnover barring few transactions amounting to Rs.7,44,661/-. The unreconciled amount is less than 1% of the total turnover. The assessee is a clearing and forwarding agent. Several transactions were carried by the assessee during the period relevant to the assessment year under appeal. The assessee was able to reconcile substantial part of the transactions. It was only miniscule part of the total turnover that remained to be reconciled. We find in the preceding assessment years as well i.e. assessment years 2011-12, 2012-13, 2013-14 the assessee was unable to reconcile small portion of the transactions. The CIT(A) deleted the additions placing reliance on the decision of Tribunal in the case of S. Ganesh (supra). The learned DR of the assessee stated at Bar that the assessee has not taken the benefit of TDS credit in respect of unreconciled transactions. Since, the Revenue has accepted the turnover declared by the assessee and it is only the marginal part of the total transactions hence, no addition is warranted in



respect of unreconciled amount. Taking into consideration peculiar facts, the addition on account of mismatch in turnover is directed to be deleted. The assessee succeeds on solitary issue raised in appeal.

7. In the result, the impugned order is set aside and the appeal of the assessee is allowed.

Order pronounced in the open court on Wednesday the 23rd day of November 2022.

Sd/-

(OM PRAKASH KANT)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIALMEMBER

मुंबई/Mumbai,

दिनांक/Dated: 23 /11 /2022

M.R. SONAVANE

प्रतिलिपी अग्रेषित of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/The Respondent.
3. आयकर आयुक्त (अ)/ The CIT(A)-
4. आयकर आयुक्त/ CIT
5. विभागीय प्रतिनिधी, आय. अपी. अधि., मुंबई/DR, ITAT,Mumbai
6. गार्ड फाईल/Guard file.



//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)/
Sr. Private Secretary
ITAT, Mumbai