

**आयकर अपीलीय अधिकरण, पीठ "B" , कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**BENCH "B" KOLKATA**

**Before: Shri Manish Borad, Accountant Member and  
Shri Sonjoy Sarma, Judicial Member**

आयकर अपील सं.य/  
**ITA No. 636/Kol/2017**  
Assessment Year: 2013-14

<b>M/s. Silvertone Infra Projects P.Ltd.</b> CA-15 Block, Urvashi Complex, Tara Shankar Sarani, City Centre, Durgapur-713216.	<b>बनाम</b> V/s.	<b>DCIT, Circle-2, Durgapur</b> Aaykar Bhawan Annexe, 4 <sup>th</sup> Fl., Aaykar Bithi, City Centre, Durgapur-713216
<b>PAN: AANCS2608A</b>		
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent
अपीलार्थी की ओर से/By Appellant		Shri Amit Agarwal, Advocate Shri H.V.Bharadwaj, Id.AR
प्रत्यर्थी की ओर से/By Respondent		Shri P.P. Barman, Addl.CIT, Id.DR
सुनवाई की तारीख/Date of Hearing		06-12-2022
घोषणा की तारीख/Date of Pronouncement		16-12 -2022

**आदेश / O R D E R**

**PER MANISH BORAD, AM.**

This appeal of the assessee for the assessment year 2013-14 is directed against the order dt. 27-01-2017 passed by the Id. Commissioner of Income-tax, Appeals [ in short, hereafter referred to as 'the 'Id. CIT(A), Durgapur.

2. The assessee has raised the following grounds of appeal for the AY 2013-14:-

1.0 For that the Id. CIT (A) is not justified in sustaining the addition of Rs.10,78,194/- out of Power and Fuel Expenses merely on disproportionately high in certain months and without considering all materials facts which was given, the addition so made being perverse needs to be deleted in full:

2.0 For that the Id. CIT (A) is unjustified in sustaining the addition of an adhoc disallowance of 10% out of the Repairs & Maintenance and thereby, making an addition of Rs. 1,29,741/- merely on that the money has been paid by cash while entire amount paid by cheque except s.25, 1 00/- out of Rs.12,94,711/- the addition so made being perverse needs to be deleted in full.

3.0 For that the Id. C IT CA) erred in law in sustaining an adhoc disallowance of the Unloading & Chipping amounting to Rs.23,98,090/-; the addition so made for non deduction of TDS and 50 % cash payment without considering of all papers and TDS return, being perverse needs to be deleted in full:

4.0 For that the appellant craves leave to add, alter, withdraw any ground/s of appeal at the time or before the date of hearing:

3. Brief facts of the case as culled out from records are that the assessee is a private limited company, engaged in the business as a transporter. Income of Rs. 73,80,250/- declared in the e-return filed for AY 2013-14 on 29-09-2013. Case selected for scrutiny through CASS followed by serving of valid notices u/s. 143(2) & 142(1) of the Income Tax Act, 1961 ( in short, referred in as the 'Act'). The Id. AO considering the submissions filed by the assessee completed the assessment assessing income at Rs. 1,20,50,480/- after making various addition in the following manner:-

Total income as declared in its ITR		Rs.73,80,250/-
Interest paid to NBFC disallowed u/s.40(a)(ia) as discussed above	Rs.7,79,400/-	
Power & Fuel disallowed as discussed above	Rs.10,78,194/-	
Repairs & Maintenance disallowed as discussed above	Rs.1,29,471/-	
Tyre Expenses disallowed	Rs.2,85,070/-	

as discussed above		
Unloading & Chpiing disallowed as discussed above	Rs.23,98,090/-	Rs.46,70,255/-
		Rs.1,20,50,475/-
R/O		Rs.1,20,50,480/-

4. Aggrieved, the assessee preferred appeal before the Id. CIT(A) and partly succeeded.

5. Aggrieved, now the assessee is in appeal before this Tribunal against the addition(s)/disallowances sustained by the Id. CIT(A).

6. The Ld. Counsel for the assessee vehemently argued and filed written submissions and detailed voluminous paper book and also provided information about turnover/ expenditure details and Net Profit for the AYs 2010-11 to 2013-14 and prayed for deletion of additions/disallowances.

7. On the other hand, the Id. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

8. We have heard the rival contentions and perused the record placed before us.

9. Ground no.1, it relates to disallowance of power & fuel expenses at Rs. 10,78,194/-, which was disallowed by the Id. AO @ 5% of the total claim of expenses at Rs. 2,15,63,895/-. The Id. CIT(A) after going through the details filed by the assessee held that expenses on power and fuel are proportionately high in certain months are not justified and specially in the month of March at Rs. 41,10,360/-, which was without any justification. We, however, on perusal of the details filed by the assessee notice that during AY 2013-14 fuel expenses are 14.45% of the total turnover Rs.149,240,464/-(AY 2013-14) whereas in immediately preceding FY 2012-13 it was at 6.58%. However, it is also noted that freight expenses at 35.73% for the current year (2013-14) came down from at 46.02% in the

immediately preceding FY(2012-13). The reason for this change is that the assessee has purchased its own vehicle.

10. As far as major increase in the expenditure of power expenses is concerned, the assessee has been able to satisfy the considerable change. However, considering the fact that most of the expenses of power & fuel have been booked at the fag end and there considerable increase in the percentage of this expenditure for the AY 2010-11 onwards, we deem it proper to sustain the addition/disallowance @ 1% of the total claim of expenditure at Rs.2,15,63,895/-. Therefore, against the disallowance of Rs.10,78,194/-, a sum of Rs. 2,15,638/- is sustained and remaining disallowance of Rs.8,62,556/- is deleted. Ground no.1 raised by the assessee is partly allowed.

11. Ground no. 2, it relates to disallowance of repair & maintenance expenses at Rs. 1,29,741/-. Though it remains an undisputed fact that the assessee has filed complete ledger accounts of the expenditure incurred. Except an amount of Rs. 25,100/- incurred in cash remaining/balance amount has been paid through banking channel. We also note that percentage of repair and maintenance expenditure has scaled down as comparable to the preceding year. We, therefore, are of the considered view that disallowance of repair and maintenance expenses needs to be sustained only to the extent of Rs.25,100/-, which the assessee failed to explain. Thus, remaining addition of Rs.1,04,641/- is deleted. The assessee gets part relief. Ground no. 2 is partly allowed.

12. Ground no. 3, it relates to disallowance of unloading & chipping expenses computed @ 5% i.e at Rs. 23,98,090/- on the total amount of unloading & chipping expenses at Rs. 4,79,61,814/- incurred during the year. Reasons for the said disallowance was that 50% of the said expenditure was incurred in cash and substantial amount has been paid to

individuals in the month of March. Further, it was observed by the lower authorities that the assessee failed to give any justification/explanation as to why TDS had not been deducted on the part payment and TDS not deducted on remaining payment. Further on consideration the details filed by the assessee, we notice that most of the expenditure though has been incurred in cash but subjected to deduction of TDS, which has been duly deposited. Both the lower authorities have given general remarks and have not specifically pointed out any such payment, which has been made in cash and TDS not deducted and not supported by relevant documents. However, considering the fact that loading and chipping expenses constitutes major parts of the expenditure of the assessee company i.e 32.14% and also considering the fact that turnover of the assessee has increased from 1.26 cr during AY 2010-11 to Rs. 14.92 cr during AY 2013-14 and also net profit which was declared at Rs. 9,04,071/- during AY 2010-11 has risen to Rs.99,15,955/- in AY 2013-14, the books of account regularly audited and complete details have been filed before us in the shape of paper book, we being fair to both the parties are inclined to sustain the disallowance @ 1% i.e at Rs. 4,79,618/- as against Rs.23,98090/- confirmed by the Id. CIT(A). Thus, assessee gets relief at Rs. 19,18,472/-. Ground no.3 is partly allowed.

13. Ground no. 4 is general in nature, which needs no adjudication.

14. In the result, the appeal of the assessee is partly allowed.

आदेश खुले न्यायपीठ में दिनांक 16-12-2022 को उद्घोषित।

Sd/-  
(SONJOYSARMA)  
JUDICIAL MEMBER

Dated :16-12-2022

Sd/-  
(MANISHBORAD)  
ACCOUNTANT MEMBER

**\*\*PP/SPS**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

**1.अपीलार्थी/Appellant/: M/s. Silvertone Infra**

**Projects P.Ltd. CA-15 Block, Urvashi Complex, Tara Shankar Sarani, City Centre, Durgapur-713216.**

**2. प्रत्यर्थी/Respondent/: DCIT, Circle-2, Durgapur**

**Aaykar Bhawan Annexe, 4<sup>th</sup> Fl., Aaykar Bithi, City Centre, Durgapur-713216**

**3. संबंधित आयकर आयुक्त / Concerned CIT**

**4. आयकर आयुक्त- अपील / CIT (A)**

**5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata**

**6.गार्डफाइल/Guardfile.**

**By order/आदेश से, /True Copy/**

**Assistant Registrar  
ITAT, Kolkata**