

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

Sh. Yogesh Kumar US, Judicial Member

ITA No. 6223/Del/2017 : Asst Year: 2013-14

| | | |
|---|-----|-------------------------------------|
| Sri Ram Sales Corporation, Manoj Kumar Gupta, 13A/ 27, WEA, Kabir Road, Karol Bagh, New Delhi-110005 | Vs. | ACIT, Circle-50(1), New Delhi |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AASFS2345A | | |

Assessee by : Sh. Hiren Mehta, CA

Revenue by : Sh. Ram Dhan Meena, Sr. DR

Date of Hearing: 22.02.2023

Date of Pronouncement: 24.02.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal is filed by the assessee against the order of the Id CIT(A)-17, New Delhi dated 31.07.2017.

2. The assessee has raised the following grounds of appeal:-

"1. That on the facts and circumstances of the case and in law, the order passed by CIT (A)-17, New Delhi (hereinafter referred to as CIT (A)), is contrary to fact and bad in law.

2. That on the facts and circumstances of the case and in law the Ld. CIT (A) was not justified in not specifically adjudicating the ground of appeal raised by the appellant challenging the action of the assessing officer in passing an order u/s 144 of the Income Tax Act, 1961.

3. That on the facts and circumstances of the case and in law the Ld. CIT (A) was not justified in upholding the addition of Rs. 1,80,66,200/- by treating the amount of Rs. 1,10,41,000/- received from M/s PVS Enterprises Pvt. Ltd. and Rs. 70,25,200/- received from Mr. Virender Kumar as un-substantiated cash credits.

3.1 That the Ld. CIT (A) was not justified in confirming the aforesaid action of assessing officer overlooking the fact that AO failed to issue summons to the aforesaid parties inspite of having their PAN and Address.

4. That on the facts and circumstances of the case and in law the Ld. CIT (A) was not justified in confirming the addition of Rs. 10,41,614/- made by the assessing officer by disallowing 10% of total expenses of Rs. 1,04,16,138/- debited to profit & loss account on estimate basis.

5. That on the facts and circumstances of the case and in law the Ld. CIT (A) was not justified in upholding the disallowance of interest as under:

| S.No. | Particulars | Amount (Rs.) |
|--------------|---|---------------------|
| 1. | Disallowance of interest paid for unsecured loans added as un-substantiated cash credit | 11,84,667/- |
| 2. | Disallowance of interest paid to partners | 5,14,135/- |
| | Disallowance of interest paid to bank | 28,04,006/- |
| | Total | 45,02,808/- |

3. At the outset, it was brought to our notice that the assessee firm was engaged in trading of food grains, the firm was formed on 25.10.1993 two partners Sh. Manoj Kumar Gupta and Sh. Brij Mohan Arora. Sh. Manoj Kumar Gupta dealt with procurements, marketing of products and liaison with suppliers and customers, Brij Mohan Arora dealt with day to day affairs, bank operations, account settlement with sundry creditors and sundry debtors, and compliance with tax authorities.

4. The firm was dissolved in June 2014 due to a dispute between the partners.

5. Due to the closure the firm, it stopped its operations and the office of the firm at 21/2A, 1st Floor, Naraina Industrial Area, New Delhi 110028 stands closed due to non-payment of rent the rental lease was terminated by the landlord.

Furthermore, the landlord after terminating the rental agreement, took over the possession of the office premises and discarded all the existing records of the firm, along with that the landlord took over the possession of computers and other office equipment.

6. A police complaint against the landlord was filed with the Naraina Police Station on 23.03.2016 which is being placed on record along with this application as additional evidence at page 1 to 2. Thereafter, the another complaint was filed with the Naraina Police Station on 21.09.2016 to follow up, copy enclosed at

7. Furthermore, a letter was also filed with the DCP Vigilance, Barakhamba Road, New Delhi on 06.04.2016 against the non-action by Naraina Police Station, copy of the reminder of the complaint placed on record at page 5 to 7.

8. In all the above complaints it was inter-alla pointed out that the landlord had forcibly broken the lock of the office and removed various office articles and the accounting records, files pertaining to Income tax, Sales tax/VAT etc. which has handicapped the appellant firm to represent it's ongoing cases before the statutory authorities.

9. Sh. Manoj Gupta partner of the appellant firm also filed a complaint on 13.04.2017 with SHO Karol Bagh, Police Station against Brij Mohan Arora (partner of the firm) and Rohit Anand (CA) bringing on record the dispute with the partner Sh. Brij Mohan Arora, who handled day to day operations, banking operations who in connivance with Sh. Rohit Anand (CA)

cheated the firm and misappropriated funds. Due to non-cooperation by the CA compliance with tax authorities became difficult. Copy of the complaint is enclosed in the additional evidences. The present appeal was filed and pursued by Sh. Manoj Kumar Gupta who represented the firm before the CIT(A) and AO.

10. It was submitted that owing to the above events the assessee could not represent the case before the revenue authorities and filed additional evidence under Rule 29 of Income Tax Appellate Tribunal Rules, 1963. Keeping in view the reasons given by the assessee the additional evidence have been admitted.

11. Since, the revenue has not got the opportunity to go through the evidences, in order to determine the right tax, we deem it proper to remand the matter to the file of the AO, who would consider the additional evidences and pass an order in accordance with the provisions of Income Tax Act, 1961.

12. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 24/02/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 24/02/2023

Ajay Kumar Keot, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR