

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 1688/Hyd/2018
(निर्धारण वर्ष / Assessment Year: 2011-12)

M/s. Pasuparthi Silks, Tirupati [PAN No. AACFP7581P]	Vs. Asst. Commissioner of Income Tax, Circle-1(1), Tirupati
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: NONE
राजस्व द्वारा/Revenue by: Shri Kumar Aditya, DR

सुनवाई की तारीख/Date of hearing: 15/03/2023
घोषणा की तारीख/Pronouncement on: 31/03/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the order dated 11/05/2018 passed by the learned Commissioner of Income Tax (Appeals)-Tirupati, ("Ld. CIT(A)"), in the case of M/s. Pasuparthi Silks ("the assessee") for the assessment year 2011-12, assessee preferred this appeal.

2. Assessee is a partnership firm. It engaged in the business of trading of silk sarees. There was a survey in the premises of the assessee on 29/3/2011, during which some deficit in the cash was found. For the assessment year 2011-12 it filed the return of income on 30/9/2011 declaring an income of Rs. 3,29,430/-. Learned Assessing Officer

determined the total income of the assessee at Rs. 75,08,420/- by way of an order dated 11/3/2014 under section 143(3) of the Income Tax Act, 1961 (for short "the Act") by making an addition of Rs. 2,80,598/- towards the deficit in cash, Rs. 29,54,206/- towards deficit in stock and Rs. 39,44,190/- towards sales outside the books.

3. In appeal, Ld. CIT(A) restricted the addition on account of the physical stock to Rs. 4,60,752/-. Ld. CIT(A) however, confirmed the additions of Rs. 2,80,598/- made on account of deficit of cash and Rs. 39,44,190/- made on account of sales outside the books of accounts. Assessee is, therefore, before us in this appeal.

4. When the matter is called, neither the assessee nor any authorised representative entered appearance. It could be seen from the record that the notices that were sent to the address given in form No. 36 were served on the assessee and in spite of the same, the assessee does not choose to appear before the Bench and to put forth its claim. In the circumstances, we do not find any option but to proceed to decide the case basing on the record after hearing the counsel for Revenue.

5. It could be seen from the orders of the authorities below that no explanation was offered by the assessee for the deficit of cash that was found on the date of survey, but subsequently the assessee came forward with a plea that one of the partners withdrew a sum of Rs. 1.5 lakhs towards purchase of gold and silver. Both the authorities did not accept this explanation of the assessee on the ground that except making the bald statement, the assessee did not take any steps to substantiate the same with cogent evidence. Even before us also, the assessee did not file any material in support of such a contention.

6. In the absence of any material in support of the contention of the assessee, we find it difficult to overturn the findings of the authorities below. Though the assessee could not produce any such explanation as

on the date of the survey, and subsequently took the plea that the partner being a lady, who has to take care of her personal family affairs as well, there is bound to be a gap of one or two days for her to give the details for which withdrawal was made from the firm, it is subsequently the assessee could have taken all the steps to see that no doubt is left in the minds of the authorities. In the absence of any material whatsoever in support of such statement made by the assessee, we uphold the findings of the Ld. CIT(A) and confirm the addition. Grounds No. 2 and 3 are accordingly dismissed.

7. Now coming to the other ground relating to the addition of Rs. 39,44,190/- on account of the sales outside the books of accounts, learned Assessing Officer recorded that during the course of survey certain loose sheets captioned as "Gopi Day book" for the period from 1/4/2009 to 11/6/2009 were found and impounded. Learned Assessing Officer further found that the day book contains the entries recording the cash sales made by the assessee, classifying the cash sales as "S" and "T", in respect of the Pasuparthi Silks and Pasuparthi Textiles respectively, but such entries as were found on the loose sheets were found not reflected in the regular books of accounts maintained by the assessee. Since the said sales were found to be for a part of the year, the total suppressed sales for the entire year are estimated by extrapolating the suppressed sales for the financial year 2009-10, to be quantified at Rs. 39,44,190/-. Learned Assessing Officer, therefore, added the same amount under section 68 of the act.

8. Before the Ld. CIT(A), assessee contended that there was no evidence of unaccounted sales in the year under consideration and if it all any addition had to be made, it should only be Rs. 6,59,188/- since the assessee was carrying on the business of textiles only.

9. Ld. CIT(A), as a matter of fact, found that there is no evidence of unaccounted sales in the year under consideration, but the learned

Assessing Officer found evidence of unaccounted sales to the tune of Rs. 6,59,188/- for the period between 1/4/2009 and 11/6/2009, and however, since the assessee was found to be diverting the sales outside the books of accounts on regular basis in the past, the estimation made by the learned Assessing Officer was proper.

10. It is, therefore, clear that the Ld. CIT(A) accepted that the evidence that was found on account of the unaccounted sales was only for the sales to the tune of Rs. 6,59,188/- but since the assessee was found to be diverting the sales outside the books of accounts on regular basis in the past also, the estimation made by the learned Assessing Officer was found to be proper. This particular addition is made on the basis of estimate having regard to the facts and circumstances of the case and, therefore, it cannot be said that it is made on surmises and conjectures. We do not find anything perversity in this finding of the Ld. CIT(A). Even before us also the assessee did not put forth its case properly and for want of any evidence to the contrary, we uphold the findings of the authorities below and dismiss ground No. 4 to 9.

11. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on this the 31st day of March, 2023.

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 31/03/2023

TNMM

Copy forwarded to:

1. M/s. Pasuparthi Silks, No. 243, Gandhi Road, Tirupati.
2. Asst. Commissioner of Income Tax, Circle-1(1), Tirupati.
3. Pr.CIT, Tirupati.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD