

IN THE INCOME TAX APPELLATE TRIBUNAL
“RANCHI BENCH, RANCHI
VIRTUAL HEARING AT KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Rajesh Kumar, Accountant Member

I.T.A. No.25/Ran/2021
Assessment Year: 2013-14

Sunil Kr. Yadav (HUF)..... Appellant
C.A D. N Dokania,
103A, Shanti Bhawan, Bank More,
Dhanbad-826001.
[PAN: AAWHS7204N]

vs.

ITO, Ward-2(2), Dhanbad..... Respondent

Appearances by:

Shri M. K. Choudhary, Adv., appeared on behalf of the appellant.

Shri Pranob Kumar Koley, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 28, 2023

Date of pronouncing the order : April 28, 2023

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 13.08.2020 of the Commissioner of Income Tax(Appeals), Dhanbad [hereinafter referred to as ‘CIT(A)’] passed in Appeal No.CIT(A),Dhanbad/10046/2018-19 u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’).

2. The assessee has been in the business of trading in coal for the assessment year under consideration. The assessee is aggrieved by the action of the lower authorities in estimating and confirming profit @8% of the turnover as against the nil income declared by the assessee on the ground that the assessee did not upload audited books of accounts in time.

3. At the outset, the Id. Counsel for the assessee has submitted that the assessee was engaged in trading of coal only for the year under consideration. Since the assessee incurred losses, therefore, he closed the business. Even the return was not filed. However, thereafter the assessment of the assessee was reopened by the Assessing Officer u/s 147/148 of the Act. The assessee filed return of income in response to the statutory notices issued u/s 148 of the Act. However, due to certain reasons beyond the control of the assessee, the tax audit report could not be uploaded on the Income Tax portal in time. However, during the assessment proceedings, the audited books of accounts were furnished before the Assessing Officer. However, the Assessing Officer declined to go through the audited books of accounts and estimated the profit of the assessee from the coal business @8% and made the impugned addition of Rs.24,14,000/- into the income of the assessee.

4. Before the CIT(A), the case of the assessee was almost remained unrepresented. Therefore, the Id. CIT(A) confirmed the addition so made by the Assessing Officer.

5. We have considered the rival contentions and gone through the record. We find that it has been duly noted in the assessment order as well as in the order of the CIT(A) that the assessee has filed before the Assessing Officer, the purchase statement and statement from BCCL and details of advances as well creditors, details of goods services, purchases from BBCL and ECL in details of salary paid to staff and copy of 26AS. However, the audited books of accounts were also filed before the Assessing Officer during the assessment proceedings. No doubt, there was delay in uploading the books of account on the portal. However, once the assessee has furnished the audited books of

account and other relevant documents, the Assessing Officer was supposed to go through the same before estimating the profits of the assessee from the aforesaid business. The ld. Counsel for the assessee has also submitted that in the identical cases of trading of coal business in the case of other assessees, the profits have been accepted @0.48% to 0.68%. May it be so, in our view, the Assessing Officer was supposed to go through the audited books of accounts of the assessee and other relevant documents before estimating the profit of the assessee @8%. In view of this, the ad hoc estimation of the profit in the case of the assessee by the Assessing Officer cannot be said to be justified. The impugned orders of the lower authorities are, therefore, set aside and the matter is restored to the file of the Assessing Officer with a direction that the Assessing Officer will give proper opportunity to the assessee to furnish the relevant documents and thereafter will examine and verify the same and after giving opportunity of hearing to the assessee, will pass a fresh assessment order in accordance with law.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 28th April, 2023.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 28.04.2023.

RS

Copy of the order forwarded to:

1. Sunil Kr. Yadav (HUF)
2. ITO, Ward-2(2), Dhanbad
3. CIT(A)-

4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches