

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE 'B' BENCHES :: PUNE**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER &  
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**ITA No.332/PUN/2023  
(A.Y. 2015-16)**

Ravindra Arvind Ranade, 5, Shila Vihar Colony, Kanchan Bhavan, Karve Road, Paud Phata, Kothrud, Pune.  PAN: AAZPR 8113 Q	vs	ITO, Ward-11(2), Pune.
Appellant		Respondent

Assessee by	:	Shri Abhay Avachat, AR
Revenue by	:	Shri M.G. Jasnani, DR
Date of hearing	:	02/05/2023
Date of pronouncement	:	11/05/2023

**ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the assessee-Ravindra Arvind Ranade against the order of Commissioner of Income Tax (Appeals) [National Faceless Appeal Centre], Delhi, dated 30.01.2023 for A.Y.2015-16, emanating from the order u/s. 143(3), dated 20.12.2017 passed by the ITO, Ward-11(2), Pune. The assessee has raised the following grounds of appeal:

*"1. The learned AO has erred in making addition of Rs.19,74,561/- to the total income of assessee under pretext of mismatch in the amount of sales turnover as per accounts and the learned CIT(A) in sustaining the same.*

*2. The learned AO has erred in making addition of Rs.19,74,561/- alleging that there was a difference in*

*sales/receipts as per accounts, thus, resulting in understatement of income.*

*3. The revenue authorities did not consider the fact that difference in gross turnover / sales as alleged, was attributable to service tax levy and thus there was no any difference.*

*4. The addition made by the AO is beyond the scope of limited scrutiny and thus not as per the norms and issues selected under scrutiny. Therefore, the addition made in assessment order is void and bad in law.*

*5. The assessee prays before your honour that difference in receipts/sales which the assessee has agreed in assessment and/appellate proceedings be ignored and deleted since the said agreement was not in keeping with facts and circumstances of the case and the law.*

*6. The assessee prays before your honour that difference in gross receipts/sales cannot be taxed, but profit element therein needs to be taxed, if ultimately the addition is sustained.*

*7. The learned AO and the CIT(A) has erred in not considering submissions made by the Assessee while making assessment.*

*8. The learned CIT(A) erred in disposing the appeal without affording adequate opportunity of being heard.*

*9. The assessee craves leave to add, alter, amend, modify, and delete all or any of the grounds of appeal."*

**Brief facts of the case:-**

2. The assessee has e-filed his return of income on 29/09/2015 declaring total income of Rs. 76,87,580/-. The case of the assessee was selected for scrutiny for the following reasons:-

- (i) Receipt u/s. 194C and 194J (as per 26As) are more than the receipts shown in ITR.
- (ii) Mismatch in sales turnover reported in Audit

Report and ITR.

- (iii) Tax credit claimed in ITR is less than tax credit available in 26AS; and
- (iv) Higher turnover reported in service tax return as compared to ITR.

2.1 The Assessing Officer (AO) has issued various notices to the assessee and requested to explain the difference. In response to the notices, the assessee has filed reconciliation statement. Finally, the AO after considering the reconciliation statement, held as under:-

*"4. The above contention of the assessee has been considered and verified from the record available & on verification of the submission made by the assessee, the following facts has been emerged*

Receipts pertaining to billing made in FY 2013-14 or in earlier year (Total of col.2 of above statement)	Billed in FY 2014-15 and Received in that year itself (Total of Col.3 of above statement)	Total Receipts of the assessee for the F.Y.2014-15 (Total of Co.1 & 2)
Rs. 14,57,114.57/-	Rs. 1,80,87,426.60/-	Rs. 1,95,44,540/-

*The assessee has followed the cash system of accounting to book income, therefore, the total receipts of the assessee for the year under consideration should have been Rs.1,95,44,540/- whereas in Profit & Loss a/c for the year total receipts has been reported at Rs.1,75,69,979/- Thus there is a difference of Rs.19,74,561/- [Rs.1,95,44,540/- (-) Rs.1,75,69,979/-] and not Rs.13,58,522/- as mentioned in show cause. In this regards no written submission was made by the assessee however it has been contended by the Authorized Representative of the assessee that 'a' is following cash system of accounting for the purpose of Income tax and Mercantile system for the purpose of service tax. He further contended that feeble was again made by him to justify that the difference is on account of different accounting systems.*

*The above contention of the assessee has also been*

*considered. Considering the facts emerged the issue arisen is not as to whether there is difference between the turnover reported in service tax return & turnover reported in Profit & Loss a/c. The very purpose of the limited scrutiny is to verify all the issues identified for examination as mentioned in scrutiny selection. Thus it is binding to verify all the four issues as mentioned supra. The issues are mainly related with the turnover. Therefore, the reporting of turnover in Profit & Loss a/c has been verified by collecting the information strictly related to the reasons for scrutiny selection. On going through the reconciliation statement of 26AS it is revealed that assessee is applying cash system of accounting. He himself admitted that the receipts pertaining to billing made in 2013-14 or in earlier years which are received during the year under consideration is at Rs. 14,57,114/- & the receipts out of billed in F.Y. 2014-15 and received in that year itself are at Rs.1,80,87,426/- aggregating at Rs.1,95,44,540/-. Thus, considering cash system/Receipt system of accounting followed by the assessee the real turnover of the assessee is at Rs.1,95,44,540/-. As per accounting system followed by him the said turnover should have been reported in Profit & Loss Account. However it is revealed that the turnover reported by him is at Rs.1,75,69,979/-. Therefore there is mismatch in turnover reported in ITR/Audit Report & actual turnover of the assessee and the difference is at Rs.19,74,561/- [Rs.1,95,44,540/- (-) Rs.1,75,69,979/-]. No proper justification has been offered by the assessee in respect of the difference. Therefore addition of Rs.19,74,561/- has been made to total income of the assessee on account of suppression of turnover."*

2.2 Aggrieved by the order of the AO, assessee filed appeal before the Id.CIT(A). Before the Id.CIT(A), the assessee filed his submissions. The Id.CIT(A) after considering the submissions of the assessee, upheld the addition made by the AO. Aggrieved by the order of Id.CIT(A), assessee filed the present appeal before this Tribunal.

**Submissions of the Id.AR:-**

3. The Id.AR submitted that the assessee is engaged in

the profession of consultancy relating to construction diagnosis under his propriety concern named as 'Construction Diagnostic Centre' and his Service Tax Registration number was AAZPR8113QSD002. He further submitted that assessee followed cash system of accounting regularly and consistency and his books of account are subjected to tax audit. The AO has made the addition of Rs.19,74,561/- on account of un-reconciled professional receipts/mismatch in receipts as per accounts /ITR. Ld.AR further submitted that the addition is based on reconciliation statement furnished by assessee which compared actual receipts through cash and bank book *vis-a-vis* amount of sale credited to profit and loss account. The actual receipts as per cash and bank book are Rs. 1,95,44,540/-, while amount of sale credited to profit and loss account is Rs. 1,75,69,979/-. Thus, there is difference of Rs. 19,74,561/-. This difference in turnover was added back by the AO. However, the same is not tenable because both the figures of sale are from same set of books of account and there cannot be any difference in same. The amount of sale credited to profit and loss account of Rs. 1,75,69,979/- is net of service tax i.e. net sales and it does not include service tax liability. While actual receipts of Rs. 1,95,44,540/- are inclusive of service tax liability i.e. gross receipts. Therefore, net figure of sale cannot be compared with gross sale and the difference in them will not lead to mismatch and addition. Ld.AR further submitted that while recording and passing accounting entries of sales in books, the assessee is crediting gross receipt to revenue account under head sales i.e. amount received in bank plus TDS thereon if any. At each quarter

end, service tax liability is calculated as per service tax return and is paid. The same is debited to revenue account under sales. Thus sales / revenue figure is reflected and appearing net of service tax liability paid in accounts, which is Rs.1,75,69,979/-. This figure is after debiting and deducting service tax paid. The said figure is reflected in accounts, in ITR and also in tax audit report. Since the same figure of sale of Rs. 1,75,69,979/- is reflected in all the documents, there is no mismatch in sales, which was pointed out by assessee in assessment proceedings and thus no addition was made on this issue/norm. The Id.AR filed paper book containing the following details:-

**BEFORE INCOME TAX APPELLATE TRIBUNAL,  
PUNE 'B' BENCH, PUNE**

ITA NO. B  
2/5/23  
ITA 332/PUN/2023 Assessment Year  
2015-16

Mr. Ravindra Arvind Ranade .....Appellant

V/s BC  
28/4/23

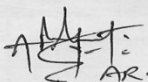
The Income Tax Officer, Ward 11(2), Pune ...Respondent

The Registrar,  
Income Tax Appellate Tribunal,  
Pune Bench, Pune

**PAPER BOOK-I  
INDEX**

LIST OF ENCLOSURES			
Sr. No.	Documents	Page Nos.	
		From	To
1.	Copy of Acknowledgment of Income Tax Return (ITR) along with Computation of Income	1	7
2.	Copy of audited financial statements	8	14
3.	Copy of tax audit report	15	24
4.	Copy of sale invoices on sample basis for service tax rate	25	27
5.	Extract of uploaded ITR form	27	27

All the documents were before lower authorities.  
Date of hearing - 2/5/2023

  
Mr. Ravindra Arvind Ranade  
Pune, April 28, 2023  
Appellant

OFFICE OF THE  
ASSTT. REGISTRAR ITAT  
28 APR 2023  
PUNE BENCHES, PUNE.

4. Ld.DR relied on the orders of the lower authorities.

**Findings and analysis:-**

5. We have heard both the parties and perused the records. The assessee in the paper book has filed copy of acknowledgment of return of income at page No. 1, computation of income at page Nos. 2 to 6. The assessee has shown professional receipts in the profit and loss account of Rs. 1,75,69,979/-.

5.1 Schedule 6 filed along with paper book at page Nos. 4 to 6 gives the following details:-

<b>Schedule 6</b>			
<i>TDS as per Form 16A</i>			
<u>Name of the Deductor, TAN and Certificate No.</u>	<u>TDS deducted</u>	<u>TDS claimed in current year</u>	<u>Gross Receipts as per 26AS</u>
Abhinav Rainbow Developers & Promoters Lip, TAN-PNEA14909G	5,900	5,900	5,90,000
Abhushan Apartment Co.Op Service Society Limited, TAN- SRTA07019F	19,000	19,000	9,50,000
Achalare Relators Pvt Ltd, TAN-PNEA09824D	7,625	7,625	76,250
Aquepharm Chemicals Private Limited, TAN-PNEA02885B	12,242	12,242	1,22,416
Arwade Infrastructure Limited, TAN- KLPAA02313D	1,247	1,247	12,472
Atlas Copco India Limited, TAN- PNEA00074E	3,658	3,658	1,82,845
Autonomous Body, TAN- PTLA10368B	800	800	8,000
Aw Constructions, TAN-PNEA46812F	4,719	4,719	47,191
Bhate And Raje Construction Company Private Limited, TAN- PNEB01851D	8,281	8,281	82,808
Bhedasgaonkar Bhalchandra Vishwanath, TAN-PNEB02177A	6,22,452	6,22,452	62,24,533
Bhoomi Promoters & Developers, TAN- PNEB05925D	0		8,989
Croda India Company Private Limited, TAN-MUMC11826G	25,300	25,300	2,53,000
Delcons Consultants India Private Limited, TAN-PNED08456A	9,995	9,995	99,941
Dr Fixit Institute Of Structural Protection And Rehabilitation, TAN- MUMD21717D	3,500	3,500	35,000

Ravindra Arvind Ranade	4	Asst year:	2015-2016
Eisha Suparshwa Developments, TAN- PNEE02127G	618	618	6,180
Envision Landmarks Llp, TAN- PNEE03294E	15,982	15,982	1,60,851
Hdfc Bank Limited, TAN- MUMH03189E	8,827	8,827	88,270
Heubach Colour Private Limited, TAN- BRDH00520C	6,000	6,000	60,000
I G Petrochemicals Limited, TAN- BLRI00315A	18,983	18,983	1,89,824
Kulshree Associates, TAN- PNEK11980D	6,787	6,787	67,865
Lotus Landmarks (India) Private Limited, TAN- PNEL05036D	2,01,158	2,01,158	21,01,706
M B Chitale Constructions, TAN- PNEM06897C	3,292	3,292	3,29,100
Mahesh Constructions, TAN- PNEM20390G	576	576	57,600
Mather And Platt Pumps Limited, TAN- PNEM02942C	768	768	38,371
Moti Udheram Panjabi, TAN- PNEM06665B	3,093	3,093	30,930
Municipal Commissioner, TAN- PNEM00529E	7,726	7,726	3,43,372
Mysore Petro Chemicals Limited, TAN- BLRM00451D	12,346	12,346	1,23,445
Nandan Varun Developers, TAN- PNEN09952F	22,390	22,390	2,23,900
Nath Constructions, TAN- PNEN08168B	4,101	4,101	41,012
Ph4 Food & Beverages Private Limited, TAN- BLRP11254F	506	506	50,560
Pinnacle Neostar Corporation Private Limited, TAN- PNEP15291D	5,000	5,000	50,000
Prestige Holiday Resorts Pvt. Ltd, TAN- MUMP09029G	9,551	9,551	95,506
Prism Cement Limited, TAN- PNEP14089F	281	281	2,809
Progressive Education Society, TAN- PNEP08965F	12,166	12,166	1,21,481
Rohan Builders (India) Pvt. Ltd., TAN- PNER06119E	20,387	20,387	2,03,866
Royal Star Group, TAN- PNER11839C	13,200	13,200	1,31,995
S.v.regional College Of Engg. And Tech., TAN- SRTS00026F	9,893	9,893	98,933
Shantilaigulabchandmutha, TAN- PNES09861F	14,775	14,775	1,47,750
Shree Renuka Sugars Limited, TAN- BLRS06392B	6,825	6,825	68,250
Shreekishan Sacchidanand Joshi, TAN- MUMS53062C	1,525	1,525	15,245
Skywards Kanakraj Developer, TAN- PNES33324E	1,983	1,983	19,830
Soiltech (India) Private Limited, TAN- MUMS47162D	4,255	4,255	42,551
State Bank Of India Paud Rd Br, TAN- PNES01149B	24,400	24,400	2,43,638
Suvidha Homes, TAN- PNES14805A	1,19,422	1,19,422	15,18,322
Suvidha Realcon Private Limited, TAN- PNED07512B	96,402	96,402	9,64,015
Thermax Ltd, TAN- PNET00017D	15,600	15,600	1,56,000
Tuljai Associates, TAN- PNET07473E	1,189	1,189	59,439
V K Developers, TAN- PNEV08943E	61,224	61,224	6,12,239
Venkatesh Bhoomi Constructions Llp, TAN- PNEV08877B	26,640	26,640	2,66,406
Vishay Components India Pvt Ltd, TAN- PNEV03750F	1,685	1,685	16,854
Vishwakarma Properties, TAN- PNEV08206C	2,171	2,171	1,08,540

5.2 Thus, as per the schedule 6, gross receipts of the assessee are Rs.1,75,97,578/-. During the course of assessment proceedings and before us also, the assessee pleaded that the assessee follows cash system of accounting. The assessee during the course of assessment proceedings submitted a chart which is mentioned in the assessment order, however it is reproduced hereunder:-

Receipts pertaining to billing made in FY 2013-14 or in earlier year (Total of col.2 of above statement)	Billed in FY 2014-15 and Received in that year itself (Total of Col.3 of above statement)	Total Receipts of the assessee for the F.Y.2014-15 (Total of Co.1 & 2)
Rs. 14,57,114.57/-	Rs. 1,80,87,426.60/-	Rs. 1,95,44,540/-

Thus, the total receipts of the assessee for F.Y. 2014-15 are Rs. 1,95,44,540/-. Since assessee follows cash system of accounting, the total actual receipts of Rs.1,95,44,540/- will be the actual turnover of the assessee for F.Y. 2014-15. However, the assessee in the profit and loss account has shown the turnover of Rs.1,75,69,979/- only. Therefore, the AO has added the difference. Ld.AR pleaded before us that the difference is on account of sales tax liability. Ld.AR claimed that receipts actually deposited in bank account contains sales tax amount which is 12.36%. Ld.AR has merely filed three sample sale invoices, however, these sample invoices do not demonstrate that the actual amount which has been deposited in bank contains sales tax amount also. In Form 3CD column No. 26 is regarding "sum referred in s.43B". Thus, column 26 is regarding sales tax, custom duty, excise duty etc. In column No.26, assessee has merely returned NIL. It means, in Form 3CD, assessee has not

claimed that there is NIL sales tax amount collected by assessee and out of that NIL amount deposited by assessee and outstanding at the end of the year is NIL. If there is any sales tax amount collected/outstanding which could have been shown in Form 3CD (column No.26), but not such amount appears in column No.26 of Form 3CD. Form 3CD is duly signed by Chartered Accountant (CA).

5.3 The assessee along with the return of income has filed details of TDS and gross receipts which are already reproduced in earlier paragraph. The said gross receipts have been shown by the assessee in profit and loss account, therefore, the assessee's plea which he has taken before us that gross receipts includes sales tax amount is factually incorrect, as in schedule 6, assessee has shown gross receipts TDS and that gross receipts has been shown in profit and loss account. Had there been any component of sales tax, assessee would have qualified it either in the statement of income or in Form 3CD, but nowhere assessee has qualified the same. In these facts and circumstances of the case, we are of the opinion that the assessee's claim that the difference is on account of sales tax liability is devoid of merit, therefore we uphold the addition made by the AO. Accordingly, ground Nos. 1 to 3 are dismissed.

**Ground No.4:**

5.4 The assessee has raised that the case was selected for limited scrutiny and therefore, the addition made is out of the purview of limited scrutiny. We have already

reproduced in paragraph 'brief facts' the reasons for scrutiny. One of the reasons for selection of case for scrutiny was higher turnover reported in service tax return compared to ITR, mismatch in sales turnover reported in audit report and ITR mismatch, 26AS and ITR. Thus, the case was mainly selected on ground of 'mismatch' between the figures shown by the assessee in income tax return vis-a-vis other. The AO has made the addition to the turnover of the assessee based on this mismatch only. Therefore, there is no merit in this ground and accordingly, ground No.4 of the assessee is dismissed.

### **Ground No.5**

5.5 Ground No.5 reads as under:-

*"5. The assessee prays before your honour that difference in receipts/sales which the assessee has agreed in assessment and/appellate proceedings be ignored and deleted since the said agreement was not in keeping with facts and circumstances of the case and the law."*

Thus, assessee has pleaded that the assessee has agreed for the difference in receipts/sales during the course of assessment proceedings. If assessee has agreed for the difference, then there is no reason for the assessee to file this appeal unless assessee proves that acceptance was on account of coercion, threat, undue influence. In this case, the assessee has not alleged that there was any coercion, threat, undue influence. In these facts and circumstances of the case, the ground No.5 of the assessee is dismissed.

### **Ground No.6**

5.6 The assessee has claimed that only profit element

should be taxed, if at all addition is sustained. The assessee in income and expenditure account, had claimed expenditure for AY 2015-16, but shown less turnover, therefore the expenditure pertaining to the said amount of Rs. 19,74,561/- has already been claimed by the assessee in profit and loss account. Therefore, the AO was right in making addition of entire amount of Rs. 19,74,561/-, therefore there is no merit in the assessee's claim that only profit shall be taxed, hence, ground No.6 of the assessee is dismissed.

### **Ground No.7**

5.7 The assessee has alleged that AO and the Id.CIT(A) has not considered the submissions of the assessee, however, there is no merit in the said ground as both the AO and the Id.CIT(A) had reproduced the assessee's submissions and have arrived at the decision after considering his submissions. Therefore, ground No.7 of the assessee is dismissed.

### **Ground No.8**

5.8 The assessee has alleged that Id.CIT(A) has disposed the appeal without affording adequate opportunity of being heard to the assessee. On perusal of the Id.CIT(A)'s order, it is observed that Id.CIT(A) has reproduced the assessee's submissions and after considering the submissions, Id.CIT(A) has passed the order. Therefore, there is no merit in the allegation leveled by the assessee that Id.CIT(A) has not given proper opportunity of hearing.

Therefore, ground No.8 of the assessee is dismissed.

**Ground No.9**

5.9 The assessee has not added, altered, amended or deleted any of the grounds of appeal. As the ground No.9 is academic in nature, the same is dismissed. No other ground has been pleaded by the assessee.

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

Order pronounced in open Court on 11<sup>th</sup> May, 2023.

**Sd/-**  
**(S.S.GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

Dated : 11<sup>th</sup> May, 2023

vr/-

**Copy to :**

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
5. The DR, ITAT, "B" Bench Pune.
6. Guard File.

By Order

Senior Private Secretary  
ITAT, Pune.