

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH : "F" NEW DELHI ]**

**BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**I.T.A. No. 8063/DEL/2018 (A.Y 2014-15)**

<p>M/s. RPS Infrastructure Limited, 1117-1120, DLF Towers B, 11<sup>th</sup> Floor, Jasola District Centre, New Delhi – 110 025. <b>PAN No. AADCR1288F</b> <b>(APPELLANTS)</b></p>	Vs.	<p>ACIT, Central Circle : 20 (2) New Delhi. <b>(RESPONDENTS)</b></p>
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<b>Assessee by</b>	<b>Shri Ved Jain, Advocate; &amp; Shri Aman Garg, C. A.;</b>
<b>Department by</b>	<b>Shri K.K. Mishra, Sr. DR; &amp; Shri Sanjay Kumar, Sr. DR.</b>

<b>Date of Hearing</b>	<b>16.06.2023</b>
<b>Date of Pronouncement</b>	<b>22 .06.2023</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-XXV [hereinafter referred to CIT (Appeals) New Delhi, dated 15.11.2018 for assessment year 2014-15.

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

*"1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad both in the eye of law and on facts.*

*2. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the addition made by the AO despite the fact the order passed by the AO u/s 143(3) of the Income tax Act is illegal and liable to be quashed, being barred by the limitation prescribed under the statute.*

*3. (i) On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the addition made by AO of an amount of Rs.1,11,39,809/- on account of purchases made by the assessee treating the same as bogus invoking provisions of Section 69C of the Act.*

*(ii) That the above addition has been confirmed rejecting the explanation and evidences brought on record by the assessee in order to prove the genuineness of the purchases made by the assessee.*

*4. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that having accepted the sales made by the assessee, purchases made by the assessee cannot be treated as bogus.*

*5. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that having accepted the books of accounts of the assessee, purchases made by the assessee cannot be doubted. "*

3. The Ground No. 1 is general in nature. In Ground No. 2, the assessee contended that the order passed u/s 143(3) of the Act is liable to be quashed being barred by limitation prescribed under statute. It is the case of the

assessee that the assessment order shall be made within the period of 21 months from the end of the relevant assessment year as per Section 153(1) of the Act and in the present case the assessment year being 2014-15, the assessment order should have been made on or before 31/12/2016 but the order has been issued u/s 143(3) of the Act on 02/01/2017 as noted from the speed post tracking details, therefore, the assessment made by the A.O. is barred by the limitation.

4. The Ld. DR submitted that the assessment order has been passed on 31/12/2016 and which has been received by the assessee on 03/01/2017. Therefore, the assessment order has been passed well within the limitation prescribed.

5. We have heard both the parties and perused the material available on record. As per Section 153(1) of the Act the time limit for assessment u/s 143 or 144 of the Act shall not be made after expiry of 21 months from the end of the assessment year in which the income was first assessable. In the present case the Assessment Year being 2014-15, the assessment order should be made on or before 31/12/2016. It is found from the record that the date of passing of the assessment order and the demand notice is on 31/12/2016. It is an admitted fact that the assessee has received assessment order on 03/01/2017 and as per the speed post tracking details, the assessment order dispatched to the Assessee has been booked on 02/01/2017 (Monday). It is

pertinent to note that the very next day of passing the assessment order i.e. 01/01/2017 being a Sunday, very next day ie: 02/01/2017 (Monday) the item was booked at 10:05 am. Thus, in all probability the assessment order has been handed over to the dispatched section on 31/12/2016 itself and the same has gone out of the table of the A.O. on 31-12-2016 itself. The assessee has not produced any document in support of his allegation to prove that the assessment order has been handed over to the dispatch section or to the post office on 02/01/2017 by the A.O. Therefore, we are of the opinion that the ground No. 2 of the assessee challenging the validity of the assessment order on the ground that the same is barred by limitation is found to be devoid of merit. Accordingly, Ground No. 2 is dismissed.

6. The Ground No. 3 to 5 are regarding addition made u/s 69C of the Act by the AO on account of bogus purchase amounting to Rs. 1,11,39,809/-. The Ld. Counsel for the assessee vehemently submitted that the Ld. CIT(A) erred in confirming the addition on account of purchase made by the assessee as bogus invoking provision of section 69C of the Act by rejecting the explanation and evidence brought on record by the assessee in order to prove the genuineness of the purchase made by the assessee. The Ld. Counsel has also taken us through the paper book.

7. Per contra the Ld. DR relied on the findings of the CIT(A) and submitted that the ground No. 3 to 5 are devoid of merit and justified the order of the CIT(A).

8. We have heard the parties, perused material on record. The Ld. CIT(A) while dismissing the appeal of the assessee has categorically held that material received not found to be entered in the goods receipt register which is conclusive proof to decide whether goods were actually received or not. The Ld. CIT(A) has dismissed the appeal of the Assessee solely on the said ground without considering the evidences brought on record by the assessee in the form of bills, third party confirmations/purchase confirmations in order to prove the genuineness of the purchases made by the assessee. Further, it is the specific ground of the Assessee (No. 3 (ii)) that the addition has been confirmed by the CIT(A) rejecting the explanation and evidences brought on record by the assessee in order to prove the genuineness of the purchases made by the Assessee. In view of the above facts and circumstances, we deem it fit to restore the matter to the file of CIT(A) for de-novo adjudication of the issue involved after giving opportunity of being heard to the Assessee. Ordered accordingly. Thus, the Ground No. 3(i) of the Assessee is allowed for statistical purpose.

9. Since we have remanded the matter to the file of the CIT(A) by allowing the Ground No. 3(i), other remaining grounds on merits requires no adjudication.

10. In the result appeal of the assessee is partly allowed for statistical purposes.

**Order pronounced in the Open Court on : 22<sup>nd</sup> June, 2023.**

**Sd/-**  
**(Dr. B. R. R. KUMAR)**  
**ACCOUNTANT MEMBER**  
Dated : 22/06/2023  
*\*MEHTA/R.N, Sr. PS\**

**Sd/-**  
**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to :

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI