

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 218/Srt/2023 (Assessment Year 2015-16)
(Physical hearing)

Saikrupa Corporation, C-502, Prasang Residency, Opp Green Avenue, L.P. Savani Road, Surat, Gujarat-395007. PAN No. ABKFS 6228 B	Vs.	I.T.O., Ward 1(3)(9), Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Krunal Jariwala, C.A.
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	29/03/2023
Date of hearing	28/04/2023
Date of pronouncement	27/06/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of learned National Faceless Appeal Centre, Delhi (NFAC)/Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A)) dated 14/03/2023 for the Assessment Year (AY) 2015-16. The assessee has raised following grounds of appeal:

"1. In view of the facts and circumstances of the case, the Id. CIT(A), NFAC, New Delhi erred in law and in facts, in not appreciating the facts of the case and the evidence being the vouchers and proof of payment and thereby confirming the addition of Rs. 10,49,818/- made by the Id. A.O. on the grounds of the bogus purchase and direct expense and hence your appellant prays that the same be deleted."

2. Brief facts of the case are that the assessee is a firm, engaged in the business of Civil Contractor, filed its return of income for A.Y. 2015-16 on

21/09/2015 declaring total income of Rs. 72,050/-. The case of assessee was selected for scrutiny. In the return of income, the assessee has shown business income. During the assessment, the Assessing Officer noted that the assessee has debited carting expenses of Rs. 5.00 lacs paid to Nation Timber Trader, Ahmedabad and carting goods on rent of Rs. 5,49,818/- from Bhaglaxmi Centring, Vadodara. In order to verify the expenses, the Assessing Officer issued notice under Section 133(6) of the Income Tax Act, 1961 (in short, the Act) to both the parties. Both the parties have not given any response to such show cause notice. The Assessing Officer further noted that the assessee has not debited any transportation expenses for transporting (carrying) such material, thus the genuineness of such expenses were doubted. The Assessing Officer issued show cause notice to the assessee as to why such expenses is not treated as bogus expenses. The Assessing Officer recorded that the assessee furnished its reply on 05/12/2017, however, they remained silence on the query raised about the genuineness of purchase of carting material and carting goods taken on rent. The Assessing Officer on the basis of his observation that neither the assessee explained the genuineness of such expenses nor he received explanation from supplier nor any explanation as to how goods/items were transported from the supplier from Ahmedabad and Vadodara without transportation

expenses. The Assessing Officer disallowed both the expenses aggregating of Rs. 10,49,818/-.

3. Aggrieved by the additions in the assessment order, the assessee filed appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee filed its submission and submitted that the Assessing Officer has not taken into consideration the details submitted during the assessment proceedings. The assessee furnished complete details of purchases and rent expenses like copy of bills, contra confirmation from the parties regarding purchase of material and payment of rent. Payments were made through account payee cheques. TDS was deducted on the expenses. The Assessing Officer made addition only on the ground that the evidences of transportation of the goods was not furnished. The Assessing Officer treated the purchases as bogus on the limited ground that the notice under Section 133(6) of the Act was not served. This alone could not be deciding factor for treating the expenses as bogus. The Assessing Officer has not verified from the bankers of the assessee. Payments made to the suppliers has been accepted as genuine by Assessing Officer.
4. The Id. CIT(A) after considering the submission of assessee, recorded that the Assessing Officer made disallowance of purchase of carting material of Rs. 5.00 lacs from Nation Timber Trader, Ahmedabad and carting goods taken on rent of Rs. 5,49,818/- from Bhaglaxmi Centring, Vadodara. On issuance of notice under Section 133(6) of the Act, no reply

was received from suppliers. The Id. CIT(A) further recorded that the assessee replied the query raised by Assessing Officer, as no transporting expenses was claimed by assessee, both the items are heavy items. In absence of transporting expenses, such expenses create doubt about the genuineness of expenses. The assessee failed to furnish proof of transportation incurred for transporting such goods, in absence of conclusive proof of purchase of material and rent paid to the parties, the treatment of non-genuineness of such expenses, is upheld. Further aggrieved, the assessee has filed present appeal before the Tribunal.

5. I have heard the submissions of the learned Authorised Representative (Id. AR) of the assessee and the learned Senior Departmental Representative (Sr. DR) for the revenue. The Id. AR of the assessee submits that the payments of purchases and rent of material was paid through account payee cheque. The assessee has furnished ledger and invoices of Nation Timber Trader from which carting material was purchased. Similarly, the ledger and invoices of Bhaglaxmi Centring from whom the material was taken on rent, was also furnished. The assessee also furnished copy of bank statement reflecting payment made through banking channel. The assessee has discharged his onus. Both the expenses were incurred for genuineness of business expenses.
6. The Id AR for the assessee also furnished his write up about the justification of transportation of goods and submitted that the assessee

is Centring contractor and he does scaffolding work for concrete casting. For various heights at different places and shapes he needs small size of timer wood to adjust the scaffolding. For the purpose of fire woods, the rates are quotes for site deliveries. The assessee paid the rent fater deducting the TDS.

7. On the other hand, the Id. Sr. DR for the revenue supported the orders of lower authorities. The Id. Sr. DR for the revenue submits that the assessee failed to furnish as to how the goods purchased or the material taken on rent, reached at its destination i.e. at the business place of assessee. No transport expenses are debited by the assessee.
8. In the short rejoinder submission, the Id. AR of the assessee submits that the transport expenses were borne by the supplier, thus such expenses was not claimed. The invoices contain the number of vehicle.
9. I have considered the submissions of both the parties and perused the record carefully. I find that the lower authorities made the addition/disallowance of purchase of carting material and rent of carting goods for want of transportation expenses, not debited by assessee in his Profit & Loss Account. Before the Tribunal, the Id. AR of the assessee vehemently submitted that transportation expenses were borne by the supplier. I have carefully perused the invoices of Nation Timber Trader, Ahmedabad dated 2nd 3rd and 4th March, 2015 which contains the vehicle number, however, there is no reference in the invoices about bearing the

cost of transportation rather there is reference at the bottom of invoices that "(1) Goods is handed over to carriers at buyer's risk and responsibility only. (2) Goods once sold will not be accepted back". The invoices is in respect of fire wood. The assessee is in the business of civil contractor and the assessee has nowhere explained as to why such fire wood was used as carting material. The other invoices for carting goods taken on rent, there is no reference of vehicle number, lorry number and there is no reference about bearing such transportation expenses. Thus, in absence of any evidence of transportation of such huge material purchased or taken on rent, I do not find any merit in the grounds of appeal raised by assessee and uphold the order of Id. CIT(A).

10. In the result, this appeal of assessee is dismissed.

Order announced in open court on 27th June, 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 27/06/2023

**Ranjan*

Copy to:

1. Assessee –
2. Revenue –
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat