

आयकर अपीलीय अधिकरण न्यायपीठ नागपूर में ।
IN THE INCOME TAX APPELLATE TRIBUNAL, NAGPUR

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.07/NAG/2018
निर्धारण वर्ष / Assessment Year : 2010-11

Parsuram Forge Pvt. Ltd.,
23, Pusp kunj, Commercial Complex,
Central Bazar Road, Ramdaspath,
Nagpur - 440010

PAN : AABCP0067A

.....अपीलार्थी / Appellant

बनाम / V/s.

Dy. CIT, Circle - 1,
Nagpur

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
Revenue by : Shri Amol Khairnar

सुनवाई की तारीख / Date of Hearing : 20-07-2023
घोषणा की तारीख / Date of Pronouncement : 07-08-2023

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 16-10-2017 passed by the Commissioner of Income Tax (Appeals)-1, Nagpur [‘CIT(A)’] for assessment year 2010-11.

2. We find no representation on behalf of the assessee nor any application filed seeking adjournment. Thus, the assessee called absent and set ex-parte. Therefore, we proceed to dispose off the appeal by hearing the ld. DR and perusing the material available on record.

3. The assessee raised two grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) justified in confirming the order of AO in making addition on account of hawala purchases.

4. We note that the assessee is a company and filed return of income declaring a total income of Rs.46,84,066/- which was processed u/s. 143(1) of the Act. Thereafter, on receipt of information from Sales Tax Department, the AO reopened the said assessment by issuing a notice u/s. 148 of the Act on account of bogus purchases. The AO asked the assessee to produce copies of Octroi receipts, Purchase bills, Bank statement showing payment, ledger account of parties and copy of stock register. In response to the said query, the assessee relied on two case laws of Mumbai Benches of ITAT in the case of Rajeev G. Kalathil Vs. DCIT in ITA No. 6727/MUM/2012 and in the case of CIT Vs. Nikunj Eximp Pvt. Ltd. in ITA No. 5604/2010 reported in 216 Taxman 171, wherein, it was held that the purchases cannot be bogus for mere listing of supplier as hawala dealer and purchases cannot be bogus for mere non-appearance of suppliers before the AO, respectively. According to the AO, the assessee did not submit transactions relating to the transportation and purchase bills could not be verified for non-appearance of suppliers. Accordingly, an amount of Rs.4,99,493/- was added to the total income of the assessee treating the transaction as bogus. The CIT(A) confirmed the same.

5. On hearing ld. DR, we note from the impugned order that the assessee purchased coal to an extent of Rs.4,99,493/- from M/s. Ashtavinayak Enterprises, Nagpur and the said entity was identified as hawala dealer as per the Sales Tax Department. Further, it is noted from impugned order that the assessee submitted ledger account and copies of

inspection report, the bills showing the purchase of coal were unstamped and do not mention any details of transportation/delivery of these goods. Further, it is observed that the transaction with M/s. Ashtavinayak Enterprises cannot be believed in view of non-production of seller and stock register as there is no dispute with regard to submission of evidences regarding the purchase of coal from M/s. Ashtavinayak Enterprises, further ledger account and copies of inspection report. Both the authorities below disbelieved these evidences in view of the said M/s. Ashtavinayak Enterprises being identified as hawala dealer. It is also an admitted fact that the assessee purchased the said coal from the said supplier through banking channel and the CIT(A) confirmed the addition made by the AO only on the ground that non-submission of transport and delivery receipts and stock register. We find no such evidences were filed before the CIT(A) and AO as well as before this Tribunal. Therefore, following the various Tribunal orders, we direct the AO to adopt 10% of gross profit of Rs.4,99,493/-. In view of the same, the order of CIT(A) is modified, accordingly. Thus, grounds raised by the assessee are partly allowed.

6. In the result, the appeal of assessee is partly allowed.

Order pronounced in the open court on 07th August, 2023.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 07th August, 2023.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Nagpur
4. The Pr. CIT-I, Nagpur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, नागपूर,
/ DR, ITAT, Nagpur.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune