

आयकर अपीलीय अधिकरण
रंची पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
RANCHI BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री राजेश कुमार, लेखा सदस्य
एवं
श्री संजय शर्मा, न्यायिक सदस्य
के समक्ष

Before

**SRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No.: 49/RAN/2020
Assessment Year: 2015-16**

***M/s. Himachal Construction Co. Pvt. Ltd.....Appellant
[PAN: AAACH 5415 K]***

Vs.

ITO, Ward-1(5), Jamshedpur.....Respondent

Appearances by:

Sh. Devesh Poddar, Adv., appeared on behalf of the Assessee.

Sh. Pranob Kumar Koley, Sr. D/R, appeared on behalf of the Revenue.

Date of concluding the hearing : July 7th, 2023

Date of pronouncing the order : August 21st, 2023

ORDER

Per Rajesh Kumar, Accountant Member:

This is an appeal preferred by the assessee against the order of the Commissioner of Income Tax (Appeals), Jamshedpur [in short Id. 'CIT(A)'] dated 20.02.2020 for the Assessment Year (in short 'AY') 2015-16.

2. The issue raised by the assessee in ground no. 1 is against the confirmation of disallowance of Rs. 9,98,000/- by ld. CIT(A) so made by the Assessing Officer (in short ld. 'AO') on account of cash deposits.

3. The facts in brief are that the survey action u/s 133A of the Income Tax Act, 1961 (in short the 'Act') was conducted on the assessee on 11.11.2014 and during the course of survey the bills and vouchers along with books of accounts were not found to be maintained except cash book. During survey, it was also found that the assessee has made payments in excess of Rs. 20,000/- in violation of Section 40A(3) of the Act and survey team impounded the bank deposits slips marked as SNK-14 and found that assessee has deposited cash on various dates in bank account with the SBI aggregating to Rs. 9,98,000/-. Accordingly, ld. AO called upon the assessee to furnish the justification as to source and date-wise entry in the cash book. The assessee submitted before Ld. AO that the deposit slips impounded during the course of survey related to the various staff and persons working on various sites. Ld. AO found that the reply of the assessee to be unconvincing and cash deposited of Rs. 9,98,000/- made in the bank account was added to the income of the assessee as from unexplained sources.

4. In the appellate proceedings, Ld. CIT(A) dismissed the appeal of the assessee on this issue by observing as under:

"I have carefully considered the findings of the AO and the submission of the appellant. The undisputed fact is that a survey u/s 133A of the Act was conducted in the business premises of the appellant on 11.09.2014 wherein certain document / devices marked as SNK 01 to SNK 24 were impounded. During the assessment proceeding, the

AO on perusal of document marked as SNK-14 found that the assessee deposited cash in various bank accounts aggregating to Rs.9,98,000/-. Accordingly, the AO required the assessee to furnish the (i) reason for cash deposits (ii) source and (iii) date wise closing cash balance in cash book. In reply the assessee stated that the loose slips impounded during the course of survey relate to the various staffs and the persons working in various sites and these deposits has nothing to do with the appellant. As the explanation of the assessee was not satisfactory the AO treated the same as unexplained income u/s.69 of the Act. On the other hand the appellant submitted that it withdrew cash from bank for payment made to supplier and labour at the site and after making payment to these parties whatever surplus remained the same was re-deposited in bank.

On perusal of rival contention, the submission the assessee is contradictory. In assessment proceeding the appellant disowned the cash deposits and in the appellate proceeding, the appellant is contending that the excess cash withdrawn was re-deposited by the staff of the appellant. However, the appellant has not submitted any documentary evidence in support of the claim in the form of either cash book or bank book. Therefore, I find no reason to interfere with the findings of the AO. Accordingly, the addition made of Rs.9,98,000/- is hereby upheld.”

5. After hearing rival contentions and perusing the material on record, we find that the assessee is a Govt. contractor having the civil works going on at different sites. The assessee has large number of labourers and employees working at different places. In the case of contractors, the cash is drawn and handed over to the staff who submit the petty expenses and the system of book keeping and accounting of these expenses of the daily transactions is generally not up to the mark as all these issues are handled by the labour staff. The reply of the assessee was that the cash deposited in the bank was the closing balance of cash which has left out after meeting all expenses which was deposited in the bank. The assessee has also provided and corroborated these entries from the books of accounts of the assessee and also the

cash book. Under these circumstances, considering the quantum of the cash deposits and turnover of the assessee, we are of the view that considering the nature of business of the assessee and the petty cash deposits in the bank which was stated to be belonging to different sites, the addition made by Id. CIT(A) is not reasonable. At the most, some income could have been assessed by applying the gross profit on the said deposits. In our opinion, it could be reasonable if the income of the assessee is estimated @ 10% and AO is directed accordingly to apply a profit rate of 10% on the cash deposits of Rs. 9,98,000/-. Hence, ground no. 1 raised by the assessee is partly allowed.

6. The second issue raised in ground no. 2 is against charging of interest u/s 234A/B of the Act on the assessed income and not on the returned income which is in violation of the decision of Hon'ble Jharkhand High Court.

7. After hearing rival contentions and perusing the material on record, we restore this issue back to the file of Ld. AO to decide the same in accordance with law.

8. In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

Kolkata, the 21st August, 2023.

Sd/-
[Sonjoy Sarma]
Judicial Member

Sd/-
[Rajesh Kumar]
Accountant Member

Dated: 21.08.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. M/s. Himachal Construction Co. Pvt. Ltd., 11 HIG, Adarsh Nagar, Sonari, Jamshedpur-831 011.**
- 2. ITO, Ward-1(5), Jamshedpur.**
3. CIT(A), Jamshedpur.
4. CIT-
5. CIT(DR), Ranchi Bench, Ranchi.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata