

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A", NEW DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER

DR B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA No.5918/Del/2019 : Assessment Year : 2010-11

SA No. 744/Del/2019 : Assessment Year : 2010-11

Amtech Engineers,
A-3/73, Sector-4,
Rohini, Delhi – 110 085.

Vs ITO,
Ward 62(1),
New Delhi.

PAN: AAHFA9694H

(Appellant)

(Respondent)

Assessee by	:	Shri Sanjay Sharma, Adv. & Shri M. A. Ansari, AR
Revenue by	:	Shri Kanav Bali, Sr. DR
Date of Hearing	:	10.08.2023
Date of Pronouncement	:	14.09.2023

ORDER

PER Dr. B. R. R. KUMAR, AM:

The present appeal and the Stay Application has been filed by the assessee against the order of Id. CIT(A)-20, New Delhi dated 16.04.2019.

2. Following grounds have been raised by the assessee in this appeal:

"1. The Ld. A.O. has made an addition of Rs. 73,10,000/- u/s 40(a) (ia) of Income Tax Act, 1961 on expenses which was dully communicated to him that out of expenses, expenses of Rs. 36,50,000/- is in the nature of petty labour expenses hence such sum is not liable for TDS Compliance & expenses of Rs. 36,60,000/- is in the nature of crane hire charges which may be subject matter of TDS but TDS was not deducted due to interpretation issues & in bonafide belief that whether TDS to be deducted or not."

3. Facts of the case are that the assessee is a partnership firm engaged in providing mechanical engineering services like fabrication, erection and laying of piping equipment, steel structural work, civil work painting etc to its clients on sub-contract basis in remote areas.

4. During the year under consideration, the assessee received a sub-contract and to execute such sub-contract the assessee incurred casual labour expenses like site machine shifting expenses for shifting of machinery from one place to another and road construction expenses for preparing structural foundation involving labour and material expenses. The assessee made payments for labour charges and for accounting purposes the same was entered in the name of a single person. It was submitted that this was done because of lack of accounting knowledge and ease of accounting entries, wherein a number of entries were reduced to a single accounting entry. Hence, the provisions of section 194C are not applicable to these transactions. We have gone through the issue and find that the expenses pertaining to labour was of Rs.19,50,000/- and hence, we hold that no deduction u/s 194C are invited to the transactions. The assessee gets relief of Rs.19,50,000/-.

5. The assessee during appeal hearing submitted that the expenses of site road construction of Rs.17,00,000/- are labour expenses incurred by it by payment to local labour at the sites which are usually remote areas in Nimrana, Rajasthan. The payments were made to for man power and machinery expenses. Hence, we hold that no deduction u/s 194C are invited to these payments.

6. To execute such sub-contract, the assessee paid crane hiring charges of Rs.36,60,000/- which is a subject matter of TDS provisions. It was argued that the assessee has neither deducted nor deposited TDS on the said payments because of lack of knowledge especially interpretation issues whether TDS is to be deducted or not and non-availability of professionals to guides on the same. We have gone through the entire record before us, the Assessment Order para no. 3 dealing with the issue of TDS and para no. 6.13 of the order of the Id. CIT(A) and provisions of the Section 194C and Section 194-I along with the explanation of the assessee.

7. On going through the entire record, we are of the considered view that the provisions invoked by the revenue authorities are not applicable to the peculiar facts specific to the instant case. Hence, the appeal of the assessee on the ground of non-deduction of TDS on hiring of crane is hereby allowed.

8. Owing to the decision of the Tribunal on the above grounds, the Stay Application of the assessee becomes infructuous and hence dismissed.

9. In the result, the appeal of the assessee is allowed and the SA of the assessee is dismissed.

Order pronounced in the open court on 14.09.2023.

Sd/-
(C. M. Garg)
JUDICIAL MEMBER

Sd/-
(Dr. B. R. R. KUMAR)
ACCOUNTANT MEMBER

Dated: 14th September, 2023.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi