

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 203/Kol/2023
Assessment Year: 2014-15

Aceline Info Solutions Private Limited 108/1, Anandpur Road Kasba East Township Kolkata - 700107 [PAN: AAHCA1492L]	Vs	Asst. Commissioner of Income Tax, Circle-4(1), Kolkata
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Abhishek Jain, C.A.
Revenue by :	Shri P.P. Barman, Addl. CIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 03/07/2023
घोषणा की तारीख /Date of Pronouncement: 06/09/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal has been preferred by the assessee against the order of National Faceless Appeal Centre, (hereinafter referred to as "the Id. CIT(A)"), passed u/s 250 of the Income Tax Act, 1961 (hereinafter 'the Act') dated 16/01/2023, for Assessment Year 2014-15.

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

"1. That on the facts and circumstances of the case, the Ld. AO and CIT (A) has erred in making the addition of Rs. 82,206/- in the hands of the appellant ignoring the fact that such income is pertaining to previous year and hence same cannot be added to the income for current year, hence addition made is liable to be deleted.

Tax Effect: Rs. 26.672/-

2. That on the facts and circumstances of the case, the Ld. AO and CIT (A) has erred in making the addition of Rs. 9,00,000/- in the hands of the appellant ignoring the such income pertains to subsequent year and has been

duly offered for tax in such year, hence same cannot be added to the income for current year, hence addition made is liable to be deleted.

Tax Effect: Rs. 2.92.005/-

3. That on the facts and circumstances of the case, the Ld. AO and CIT (A) has erred in making the addition of Rs. 38,00,000/- in the hands of the appellant ignoring the submissions made by the appellant and sustaining the addition on vague assumption without any reasonable ground or explanation which leads to double taxation on same income, hence addition made is liable to be deleted.

Tax Effect: 12,32,910

That on facts and circumstances of the case, the Ld. CIT(A) has passed the order u/s 250 of Income Tax Act, 1961 without proper application of mind and in conjectures and has been passed on the same day when submission has been filed by the appellant, hence the order passed u/s 250 of Income Tax Act, 1961 is bad in law.

Tax Effect: 15,51,587/-

5. That on facts and circumstances of the case, the Ld. AO and Ld. CIT(A) has made the addition against the appellant without considering of making third party enquiry, hence addition made is liable to be deleted.

Tax Effect: 15,51,587/-

6. That on facts and circumstances of the case, the Ld. AO has made completed the assessment and made the addition against the appellant without issuing any show cause notice which is sign qua non requirement for any assessment, hence addition made is liable to be deleted.

Tax Effect: 15,51,587/-

7. That the appellant craves leave to add, amend, alter and/or withdraw any or all the above grounds at the time of hearing and disposal of appeal."

3. Brief facts of the case are that the assessee is a private limited company. Income of Rs.3,08,55,136/- declared in the e-return filed on 25/09/2014 for Assessment Year 2014-15. Case selected for scrutiny through CASS followed by issuance of notice u/s 143(2) and 142(1) of the Act and after making certain additions, income assessed at

Rs.3,57,43,900/- . Aggrieved assessee preferred appeal before the Id. CIT(A) and partly succeeded.

4. Now, the assessee is in appeal before this Tribunal.

5. At the outset, Id. Counsel for the assessee requested for not pressing Ground No. 1, the same is dismissed as not pressed.

6. For the remaining grounds, Id. Counsel for the assessee referred to the written submission placed at page 1 to 26 of the paper book and various other documents filed in the paper book filed containing 157 pages.

6.1. On the other hand, the Id. D/R supported the order of both the lower authorities.

7. We have heard rival contentions and perused the record placed before us.

8. Ground No. 2, relates to addition of Rs.9,00,000/- made by the Assessing Officer on the basis of information available in Form 26AS. In the Form 26AS a company, namely, Alcatel-Lucent Managed Solutions Pvt. Ltd., disclosed income of Rs.23,22,757/- in the name of assessee and deducted tax thereon. However, in the return of income, filed by the assessee only Rs.10,07,361.14/- was considered and there was difference of Rs.13,15,396/-. It is stated by the Id. Counsel for the assessee that income was received in different Assessment Years and the same has been duly offered to tax and the alleged sum of Rs.9,00,000/- has been booked as revenue by the assessee in the Assessment Year 2017-18. We find that though the income of the assessee pertain to Assessment Year 2014-15 and the same has been offered to tax in Assessment Year 2017-18 and has been offered to tax

even though the said income ought to have been taxed in Assessment Year 2014-15. But confirming the addition in the hands of the assessee in the year under appeal would tantamount to double taxation. Therefore, considering the fact that assessee has a positive income in the Assessment Year 2014-15 as well as Assessment Year 2017-18 and the income is chargeable to maximum rate of tax, we delete the addition made in the hands of the assessee for this year. For arriving at this conclusion, we place reliance on the decision of the Hon'ble Gujarat High Court in the case of *PCIT vs. M/s. Adani Infrastructure and Developers Pvt. Ltd.* in *R/Tax Appeal No. 1 of 2021, dt. 08/01/2021*. Thus, Ground No. 2 raised by the assessee is allowed.

9. Ground No. 3 relates to addition of Rs.38,00,000/-, which was also made on the basis of Form 26AS, wherein assessee was shown to have been credited Rs.38,00,000/- from BSNL and tax deducted thereon but assessee has not offered this income in the gross revenue from providing services. On perusal of the details, we notice that assessee is providing services to BSNL and is also making sales of goods to BSNL. In Form 26AS, various units of BSNL have declared the transactions of crediting the income in the hands of the assessee and the sum total is Rs.40,80,433/-. Before us, the Id. Counsel for the assessee submitted that total amounts credited from BSNL during the year is Rs.49,29,230/- and the said difference is on account of certain transactions which did not attract TDS and, therefore, were not included in Form 26AS. It was also submitted out of the alleged sum in Form 26AS of Rs.40,80,433/-, Rs.38,00,000/- was on account of sale of goods to BSNL which has been duly booked in the books of accounts

under the head sale of goods and the remaining amount has been shown under the head of sale or service. Our attention was drawn to the ledger account of BSNL and the financial statement of the company and perusal of the same indicates that the contentions of the Id. Counsel for the assessee are correct. Therefore, since the alleged sum of Rs.38,00,000/- has already been included in the books of account as sale of goods, there remains no justification in sustaining the addition and same is hereby deleted.

10. Ground Nos. 4, 5 & 6 are general grounds, wherein it has been claimed that the Id. CIT(A) has made the addition against the assessee without considering of making third party enquiry. Since these grounds are general in nature and we have already allowed Ground Nos. 2 & 3 raised by the assessee, they do not call for any adjudication. Accordingly, all the effective grounds raised by the assessee are allowed.

11. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 6th September, 2023 at Kolkata.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 06/09/2023
*SC SrPs



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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata