

IN THE INCOME TAX APPELLATE TRIBUNAL  
NAGPUR BENCH : NAGPUR

[THROUGH VIRTUAL HEARING AT  
INCOME TAX APPELLATE TRIBUNAL : PUNE BENCHES : PUNE]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
DR. DIPAK RIPOTE, ACCOUNTANT MEMBER

I.T.A.No.89/NAG./2020  
Assessment Year 2012-2013

The DCIT, Circle-2, Room No.318, 3 <sup>rd</sup> Floor, Aayakar Bhavan, Telangkhedi Road, Civil Lines, Nagpur - 440001. Maharashtra.	vs.	M/s. Star Orchem International Pvt. Ltd., Bungalow No.1, Amrta Manor, Axis Bank, Ravindranath Tagore Marg, Civil Lines, Nagpur. PIN – 440 001 PAN AAFCS4531C
(Appellant)		(Respondent)

For Revenue :	Shri Kailash Kanojiya, Sr. DR.
For Assessee :	Shri Umang Agrawal

Date of Hearing :	20.09.2023
Date of Pronouncement :	12.10.2023

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This Revenue's appeal, for the assessment year 2012-2013, arises against the CIT(A)-2, Nagpur's order in case no. CIT(A)-2/72/2015-16-ITBA No.10551, dated 31.01.2020, involving proceedings u/s.143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. It is noticed at the outset that the instant appeal of the assessee suffers from 69 day's delay, is condoned since falling under Covid-2019 pandemic outbreak period between 15.03.2020 to 28.02.2022 as per hon'ble apex court's directions in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC)* read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and 421 ITR 314, excluding the covid-19 pandemic outbreak period from for all intents and purposes under the limitation law.

3. The Revenue pleads the following substantive grounds in the instant appeal :

1. *“Whether on the facts and circumstances of the case and in law the CIT(A)-2, Nagpur was justified in deleting the addition made on account of difference in total income shown in Original return of income and revised return of income, despite the fact that the assessee company was following Mercantile System of accounting.*
2. *Without prejudice the above, the Ld. CIT(A) erred on fact in deleting the entire amount of Rs.39,32,24,886/- in spite of the fact that the assessee conceded that an amount of Rs.34.14 crores had been received by it and it had sought relief only in respect of sale consideration of Rs. 3.86 crores which had not been received by it.*

3. *Whether on the facts and in circumstances of the case and in law, the Ld. CIT(A), Nagpur was justified in denying opportunity to the assessing officer to examine the additional evidence in accordance to provision of Rule 46A(3) of the Income Tax Rule, 1962.*
4. *Any other grounds of appeal at the time of hearing of the appeal.”*

4. We straight-away advert to the learned CIT(A)'s impugned order in the instant appeal and note from A perusal of paragraphs 5.0. to 6.0 of his order that what all he has done is to simply extract the assessee's written submissions followed by acceptance thereof by way of cryptic findings in para 5.1.3 than having adjudicated the same after framing points of determination followed by a detailed discussion thereupon u/sec.250(6) of the Act. This clinching factual position has gone un-rebutted from the assessee side.

5. Faced with the situation, without commenting upon merits of the issue, we deem it proper to restore the Revenue's instant sole substantive grievance back to the CIT(A) at this stage for his afresh appropriate adjudication as per law, preferably within three effective opportunities of hearing. Ordered accordingly.

6. This Revenue's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 12.10.2023.

Sd/-  
[DR. DIPAK P. RIPOTE]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 12<sup>th</sup> October, 2023

VBP/-

Copy to

1.	The applicant
2.	The respondent
3.	The CIT(A)-2, 215, Aayakar Bhavan, Telangkhedi Road, Civil Lines, Nagpur.
4.	The Pr.CIT-2, Nagpur.
5.	D.R. ITAT, Nagpur Bench, Nagpur.
6.	Guard File.

//By Order//

//True Copy //

Assistant Registrar, ITAT, Pune Benches,  
Pune.