

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'F' : NEW DELHI)**

**BEFORE SHRI G.S.PANNU, HON'BLE VICE PRESIDENT
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.3940/Del/2019
(Assessment Year : 2013-14)

ITO, Ward-20(1), New Delhi	Vs.	M/s. Pradnesh Construction Pvt. Ltd. B-165, Flat No. D, Ground Floor, Isha Insha Manzil, New Ashok Nagar, New Delhi-110096 PAN : AAGCP0048J
(APPELLANT)		(RESPONDENT)

Assessee by	Ms. Chinu Bhasin, CA
Revenue by	Shri P.N.Barnwal, CIT- DR

Date of hearing:	17.10.2023
Date of Pronouncement:	20.11.2023

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been preferred by the Revenue against order dated 25.02.2019 for assessment year 2013-14 passed by Commissioner of Income Tax (Appeals)-7, New Delhi (hereinafter referred to as the First Appellate Authority in short 'Ld. F.A.A.') in appeal against assessment order dated 29.03.2016 u/s 144 of the Income Tax Act, 1961 passed by ITO, Ward 20(1), New Delhi (hereinafter referred to as the Assessing Officer 'AO').

2. The assessee is a Private Limited Company engaged in the business of Trading of Iron and Steel. The case of assessee was selected for scrutiny and an order u/s 144 of the Act was passed after making an addition of Rs. 9,77,56,503/- u/s 145 by estimating income from business by applying net profit ratio of 8% on total turnover and by making disallowance of Rs. 23,28,42,418/- u/s 68 on account of unexplained cash credit. Before Ld. CIT(A) additional evidences were filed which were admitted by the Ld. First Appellate Authority and after calling remand report, the CIT(A) has deleted the additions for which Revenue is in appeal raising following grounds ;

“1. Whether the ld. CIT(A) has erred in law and on facts and in circumstances of the case, in deleting the addition of Rs. 9,77,56,503/- made by the Assessing officer under section 145(3) of the Income Tax Act, 1961, by estimating net profit @ 8% of the total receipts?

2. Whether the Ld. CIT(A) has erred in law and on facts and in circumstances of the case, in deleting the addition of Rs. 23,28,42,418/- made by the Assessing officer under section 68 of the Income Tax Act, 1961 despite the fact that the assessee was not able to prove the creditworthiness of the creditors and genuineness of transactions as required u/s 68 of the Income Tax Act, 1961?

3. The appellant craves to be allowed to add any fresh ground of appeal and/ or delete or amend any grounds of appeal.”

3. Heard and perused the record.

4. Ld. DR has primarily argued on the basis of fact that sufficient opportunities were given to the assessee by way of notices by Ld. AO. It was submitted by him that Ld. CIT(A) has fallen in error in accepting the stand

of the assessee qua a sum of Rs. 23,28,42,418/- which was shown as a loan in the balance sheet but for which contrary evidence was led that the same were advance received from customers.

4.1 Ld. AR however relied the orders of Ld. CIT(A).

5. After giving thoughtful consideration to the matter on record. The ground wise findings are as follows ;

6. **Ground no. 1;** The ground arises out of addition made on the basis of estimated net profit and Ld. CIT(A) having admitted additional evidences observed in para 6.3 to 6.7 as follows :

“6.3 As regards, the contents of documents filed as additional evidence the AO has not pointed out any discrepancy or defect in the documents. In fact he has accepted all submission of the appellant in this regard. The confirmation of parties, filed by appellant, were sent for confirmation by the AO by issuance of notice u/sec. 133(6) and the same were got confirmed, no discrepancy was noticed by the AO.

6.4 In the assessment order passed, additions were made on two points. First addition of Rs. 9,77,56,503/- was with reference to estimation of income by applying N.P Ratio.

6.5 The company is engaged in the business of trading of Steel. The accounts of the company are duly audited. During the appellant proceedings, the appellant has filed detail of purchases and sales, details of parties with whom purchases and sales had been made.

6.6 The appellant is registered with VAT Department and had filed quarterly return for VAT for the Captioned business. The purchases and sales were made with parties which are identifiable and assessed to tax with Income Tax Department. The entire purchases and sales were made in the normal course of business and each and every transaction was routed through bank. Confirmations from all the parties were also submitted.

The appellant also maintained stock registers and all the purchases and sales were recorded therein. The relevant documents regarding purchase, sales, bank, VAT returns, stock details, etc. were also filed and verified by the AO at remand stage.

6.7 The AO has not found any defect or discrepancy therein. Since, the entire purchase and sales were duly supported by Bills, confirmed by parties and the transactions were "through Banking Channels, there is no justification of applying N.P. Ratio for estimation of income. In view of same, the addition made by the AO by estimating the N. P. Ratio is deleted."

7. Appreciating the aforesaid observations of Id. CIT(A), we are of the considered view that the duly audited accounts, party wise details of purchase and sales with the confirmations, quarterly VAT return and the bank account statements were made available to Ld. CIT(A) which were duly examined by the Assessing Officer during remand proceedings and no specific defect in the books was pointed out by AO. Ld. CIT(A) thus has not erred in deletion of addition made on the basis of assumption of net profit at 8%. Accordingly, this ground is decided against the revenue.

8. **Ground No. 2;** The issue arises out of addition made by AO noticing that there was increase in unsecured loan by an amount of 23.28 crores for which no details / confirmations were filed. This issue has also been dealt by the Ld. CIT(A) on the basis of remand report wherein during the remand proceedings notice u/s 133(6) of the Act were issued and parties had confirmed transactions. It will be appropriate to reproduce para 6.8 and 6.9 of the order of Id. CIT(A) herein below :

"6.8 Another addition of Rs.23,28,42,418/- was with reference to increase in loans/credit appearing in the Balance Sheet of the company. It was submitted that the appellant had

received advances from two customers on account of business dealing with them. These parties are Identifiable and assessed to tax with Income Tax Department. The dealings with them were made in the normal course of business and the transactions were executed through cheques only.

6.9 Further, the subject amounts were duly received squared up in the subsequent years. Confirmation from said parties along with copy of their bank statement and Income Tax Returns were filed in the paper book and forwarded to the AO. The AO has got them verified by issuance of Notice u/sec. 133(6) and these parties have confirmed the transactions. In view of the verification by the AO at remand stage, the addition c Rs.23,28,42,418/- is directed to be deleted. Therefore, these grounds of appeal are rule in favour of the appellant.”

9. After taking into consideration the aforesaid observations, we are of the considered view that there is no substance in the argument of Ld. DR that amount of Rs. 23.28 crores is shown in the financials as a loan while there was change of stand in the appellate proceedings. At page no. 3 to 24 of the paper book assessee has provided the copy of audited financial statements for A.Y. 2013-14 wherein at page no. 15 under the heads ‘other current liability an amount of Rs. 23,86,03,539/- is disclosed for which assessee has proved that the same were from parties, which were suppliers and also an advance from customer was reported. Thus, Ld. CIT(A) has rightly accepted the explanation of the assessee which was duly substantiated in the remand proceedings. No interference is called for in the findings of Ld. CIT(A). The ground has no substance.

10. Consequently the grounds raised by Revenue have no substance and the **appeal of Revenue is dismissed.**

Order pronounced in the open court on 20th November, 2023.

Sd/-

(G.S.PANNU)
VICE PRESIDENT
Date:- 20.11.2023

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI