

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

(ITA No.89/RPR/2022)
(Assessment Year:2019-20)

Chhattisgarh State Civil Supplies Corporation, Bhilai The Hitvada Bhilding, Avanti Vihar, Raipur-492001, C.G.	V s	CPC, Banglore, JAO: Dy. Commissioner of Income-Tax, Circle-1(1), Raipur
PAN: AACCC1772C		
(अपीलार्थी/Appellant)	· ·	(प्रत्यर्थी / Respondent)
निर्धारित की ओर से /Assessee by	:	Shri S. R. Rao, Adv.
राजस्व की ओर से /Revenue by	:	Shri Satya Prakash Sharma, Sr. DR
सुनवाई की तारीख/ Date of Hearing	:	28.11.2023
घोषणा की तारीख/ Date of Pronouncement	:	30.11.2023

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeal filed by the assessee is instituted against the order of Ld. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi, u/s 250 of the I.T. Act, 1961 (herein after referred to as "Act") dated 23.12.2021 for the AY- 2019-20, which in turn has arisen out of the order u/s 143(1) by the Deputy Commissioner of Income Tax, Circle-1(1), Raipur dated 23/10/2020.

1. The substituted ground of appeal submitted by the assessee dated 21.11.2023 are as under:

“In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-Tax (Appeals) has erred in confirming disallowance of Rs.2,88,918/- representing profit on sale of fixed assets deducted in the computation of total income as relevant block of asset continue to exist during the relevant year and the amount of profit on sale of fixed assets subsumed in the closing WDV of the block.”

2. Brief facts of the case are that the assessee had filed its ITR for AY 2019-20 on 21.07.2020 declaring total income of Rs. 4,54,16,140/-. Its return was processed u/s 143(1) of the Income Tax, 1961 on 23.10.2020, wherein the total income was determined at Rs.7,17,57,660/-
3. Aggrieved by the order u/s 143(1), the assessee preferred an appeal before the Ld. CIT(A), wherein the appeal of assessee is partly allowed.
4. The assessee was not satisfied with the part confirmation of addition of Rs. 2,88,918/- on account of profit on sale of fixed assets, out of the total addition of Rs. 2,63,41,520/- made by the AO, therefore, the present appeal is being filed by the assessee to challenge the order of Ld. CIT(A) to that extent.
5. At the outset, Ld. AR of the assessee has submitted that, the Ld. CIT(A) has not appreciated the facts of the case correctly. The observation of Ld CIT(A) while confirming the part addition are as under:

“The grounds, submissions and the order of the AO considered carefully. I have perused the computation filed by the appellant. It is seen that the appellant only reduced “Rs.2,88,918/- towards profit on sale of fixed assets” in the computation, but not added the same. Therefore, there is no merit in the contention of the appellant. The addition of Rs. 2,88,918/- made by the AO is hereby confirmed.”

6. It is the submission of Ld. AR that during the appellate proceedings before the Ld CIT(A), assessee had specifically submitted that the amount of profit on sale of fixed assets has been added in the income of from the business and profession considered in the computation of income, thus, was reduced in the computation as not taxable in the hands of assessee. Ld. CIT(A) has misread the fact that the assessee has only reduced the amount towards the assets in the computation but have not added same in income. Ld Ar drew our attention to assessee’s submission in this regard before the Ld. CIT(A) which are reproduced in the order of Ld. CIT(A) at page no. 9 in para 2.7, the same is extracted as under:

Item no. (c) Profit on sale of Fixed Assets relates to an item already disallowed Rs. 2,88,918/- in Computation of Income but it was once again added without considering the disallowance made by appellant. Copy of computation of income has already been filed as Annexure-3. The enhancement resulted into double addition. Under these circumstances it is humbly be prayed that the enhancement may kindly

be cancelled, and the Ld. Assessing Officer may be directed to accept the return in the interest of justice.

7. In terms of aforesaid submission, it was the plea of the Ld. AR that an amount is already included in the income under the head business and profession which was *suo moto* reduced by the assessee while making the computation, however, no explanation was called for from the assessee in this regard while confirming the addition. The addition has been sustained without any opportunity to rebut by the assessee. Under such facts and circumstances, it was the prayer of Ld. AR that for the sake of substantial justice, the matter should be restored back to the file of AO for verification of facts pertaining to profit on sale of fixed assets which is duly added under the head income of business and profession shown in the computation at Rs. 4,15,416,140/-.

8. Ld. Sr. DR has vehemently supported the orders of Ld. CIT(A), however, as requested by the assessee that the amount of profit on sale of fixed assets is added in the amount of income from business and profession which was neither queried nor examined and finally not considered by the Ld. CIT(A), therefore, the same should be restored back to the file of AO for verification and relief in accordance with the law, has not been objected by the Ld. Sr. DR.

9. We have considered the rival submission, perused the material available on record in the present case. The contention of the assessee placed before us by the Ld. AR are found to be worth considering. On perusal of the order of Ld. CIT(A) and submission of assessee before him it is apparent that the facts related to addition of amount profit on sale of fixed assets in the income offered for tax under the head Income from Business and Profession has not been examined, enquired or considered by the Ld. CIT(A) therefore, as agreed by both the parties, in all fairness, in the interest of natural justice, we are of the considered opinion to set aside the matter back to the file of Ld. AO for verification of the facts and to vacate / sustain the addition, based on inclusion / omission of the amount of Profit on Sale of Fixed Assets of Rs. 2,88,918/- in the amount of Income from Business and Profession offered for tax in the computation of total income. Needless to say, reasonable opportunity of being heard shall be provided to the assessee.

10. In the result present appeal of the assessee is partly allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the open court on 30/11/2023.

Sd/-
(RAVISH SOOD)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)

लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 30/11/2023

Vaibhav Shrivastav

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT,
Raipur
6. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur