

आयकर अपीलीय अधिकरण
मुंबई पीठ "ए", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
सुश्री पद्मावती. एस, लेखाकार सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
MS. PADMAVATHY.S, ACCOUNTANT MEMBER
आअसं. 2878/मुं/2023 (नि.व. 2014-15)
ITA NO.2878/MUM/2023 (A.Y.2014-15)

Anmol Satish Upadhyay,
Office B-7/7, Groma House,
Sector -19, Vashi,
Navi Mumbai – 400 705.

PAN: ACXPU- 6941-M

..... अपीलार्थी/ Appellant

बनाम Vs.

ACIT 17(1), Mumbai
Kautilya Bhavan, Bandra Kurla Complex,
Bandra (East), Mumbai – 400 051

..... प्रतिवादी/ Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Mehul Shah
प्रतिवादीद्वारा/ Respondent by : Shri Manoj Kumar Sinha
सुनवाई की तिथि/ Date of hearing : 12/12/2023
घोषणा की तिथि/ Date of pronouncement : 12/12/2023

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 19/06/2023, for the Assessment Year 2014-15.

2. The assessee in appeal has assailed the impugned order on two ground, viz:

(i) Adhoc disallowance of warehousing charges amount to Rs.27,133/-

(ii) Adhoc addition of Rs.44,88,013/- on account of unproved creditors.

3. Shri Mehul Shah appearing on behalf of the assessee submitted at the outset that though the CIT(A) in the impugned order has mentioned that there was no response from the assessee to the notices issued on various dates, the said findings of the CIT(A) are contrary to the facts and documents on record. The assessee furnished necessary details viz.: copies of the Balance Sheet, Audit Report, Bank statement, cash book, purchase invoice, closing stock valuation, purchase register, etc. The acknowledgment of the documents furnished by the assessee on ITBA portal on 09/06/2023 is at page-7 of the paper book.

3.1 The Id.Authorized Representative of the assessee submitted that in ground No.1 of appeal, the assessee has assailed the order of CIT(A) in upholding adhoc disallowance of warehousing charges amounting to Rs.27,133/-. The Assessing Officer made adhoc disallowance of 25% of the total warehousing charges Rs.1,08,533/- alleging that the amount was paid in cash. The CIT(A) without considering the document filed by the assessee has upheld the addition. The Id.Authorized Representative of the assessee pointed that the assessee had made payment of warehousing charges by way of cheque. He referred to the ledger account of the relevant period at pages 43 and 44 of the paper book. He pointed that the payment of Rs.1.00 lac was made through HDFC Bank Account on 29/01/2014 and the amount was debited in the bank account of the assessee on 31/01/2014. Thus, the

contention of the Assessing Officer that the amount was paid by assessee in cash is without any basis.

3.2 In ground No.2 of appeal, the assessee has assailed the impugned order in upholding adhoc addition of Rs.44,88,013/- being 25% of the total outstanding creditors alleging that the amounts are not confirmed by the concerned creditors. The Id.Authorized Representative of the assessee submitted that assessee had furnished the details of all the creditors before the Assessing Officer and CIT(A). The CIT(A) without considering the submissions of the assessee has confirmed the additions made by Assessing Officer on adhoc basis. The Id.Authorized Representative of the assessee thus, prayed for deleting the addition and allowing the appeal of assessee.

4. Per contra, Shri Manoj Kumar Sinha representing the Department defended the impugned order and prayed for dismissing appeal of the assessee.

5. We have heard the submissions made by rival sides and have examined the orders of authorities below. A glance of the impugned order gives an impression that it is an ex-parte order. The Id.Authorized Representative of the assessee had demonstrated that the assessee respond to the notices issued by CIT(A) and furnished the relevant details to substantiate its contentions with respect to adhoc additions made by the Assessing Officer. The acknowledgement available on record reveals that the assessee in response to notice issued on 05/06/2023 has furnished the submissions and the relevant documents on 09/06/2023. Along with submissions the assessee had filed supporting evidences in the form of Balance Sheet and Audit Report,

Bank statement, cash book, closing stock valuation, purchase invoice and purchase registers, warehousing charges register, etc. Thus, the observations of the CIT(A) that no documents or details were submitted by the assessee are contrary to the documents on record. The CIT(A) while passing the impugned order on 19/06/2023 has failed to take cognizance of the evidences furnished by the assessee. In ground No.1 of appeal the assessee has assailed adhoc disallowance of Rs.27,133/- being 25% of warehousing charges Rs.1,08,133/- on the pretext that the amount was paid in cash. The assessee has drawn our attention to the ledger which clearly shows that as against total payment of Rs.1,04,000/- the assessee has paid Rs.1,00,000/- by way of cheque drawn on HDFC Bank and the balance amount was paid in the subsequent Assessment Year. The assessee has also placed on record bank statement. A perusal of the same reveals that Rs.1,00,000/- was debited from the bank account of the assessee on 31/01/2014 in respect of a cheque issued in the name of Vidhi Logistics towards warehousing charges. Thus, we find no reason to sustain adhoc addition qua warehousing charges. The assessee succeeds on ground No.1 of appeal.

6. In ground No.2 of appeal, the assessee has assailed adhoc addition of Rs.44,88,013/- being 25% of the total outstanding creditors. The assessee has furnished details of the creditors before the Assessing Officer and the CIT(A). The Assessing Officer after recording the fact that the assessee had submitted ledger copies of the said creditors in his books with bank statement made adhoc addition for the reason that the assessee failed to file confirmations from third parties. The Id.Authorized Representative of the assessee submitted that the assessee had furnished all the relevant details to

substantiate its claim, however, the assessee would also furnish confirmation from the respective parties. Taking into consideration entire facts of the case, we deem it appropriate to restore this issue back to the file of Assessing Officer . The assessee is directed to furnish confirmations from the creditors that have been disallowed by the Assessing Officer in the first round. The Assessing Officer after considering the confirmations or any other relevant documents furnished by the assessee to substantiate genuineness of the creditors shall decide the issue, in accordance with law. Accordingly, ground No.2 of appeal is allowed for statistical purpose.

7. In the result, appeal of assessee is partly allowed.

Order pronounced in the open court on Tuesday the 12th day of December, 2023.

Sd/-

(PADMAVATHY. S)

लेखाकार सदस्य/ACCOUNTANT MEMBER

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 12/12/2023

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्तCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि. , मुंबई/DR, ITAT, Mumbai
- 5.. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai