

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.2787/Chny/2018

निर्धारण वर्ष/Assessment Year: 2011-12

&

C.O. No. 33/Chny/2023 [In I.T.A. No.2787/Chny/2018]

The Income Tax Officer,
Ward 2,
Karur

Vs. M/s. Ram Blue Metals,
No. 505, Pavithram (PO),
Aravakurichi (Tk), Karur 639 206.

[PAN:AAJFR8987L]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent/Cross Objector)

अपीलार्थी की ओर से / Appellant by : Ms. Babitha, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri N. Quadir Hoseyn, Advocate
सुनवाई की तारीख/ Date of hearing : 21.12.2023
घोषणा की तारीख /Date of Pronouncement : 22.12.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the Revenue and the Cross Objections filed by the assessee are directed against the order of the Id. Commissioner of Income Tax (Appeals) – 1, Tiruchirapalli, dated 20.06.2018 relevant to the assessment year 2011-12. The grounds raised by the Revenue are reproduced as under:

1. *The order of the CIT(A) is bad in law and against the facts of the case.*
2. *The CIT(A) erred in deleting the addition made under the head "expenditure incurred towards diesel and oil" since the transaction*

have been made on various dates through cash in excess of the ceiling prescribed u/s.40A(3) of the I.T. Act, 1961.

3. *The CIT(A) erred in deleting the addition, violating the Section 40A(3) and Rule 6DD. As per Section 40A(3) and Rule 6DD, an assessee can be exempted from the requirement of payment by a crossed cheque or crossed bank draft in the circumstances specified under rule. The payments made for purchases would also be covered by the word expenditure and such payments can be disallowed if they are made in cash in the sums exceeding the amount specified under section 40A(3).*
4. *The CIT (A) erred in deleting the addition made without verifying the ledger accounts maintained by the assessee firm.*
5. *For these and other reasons that may be adduced at the time of hearing the order of the CIT(A) may be cancelled and that of the Assessing Officer be restored.*

2. Facts are, in brief, that the assessee has filed its return of income for the assessment year 2011-12 on 30.09.2011 admitting total income of ₹.7,57,460/-. After considering the submissions of the assessee against statutory notices, the Assessing Officer has completed the assessment under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 ["Act" in short] dated 31.12.2016 assessing total income of the assessee at ₹.64,41,480/- after making addition towards disallowance under section 40(A)(3) of the Act of ₹.54,99,019/-. On appeal, after considering the submissions of the assessee, the Id. CIT(A) deleted the addition made under section 40(a)(3) of the Act.

3. Aggrieved, the Revenue is in appeal before the Tribunal. The Id. DR has submitted that the Id. CIT(A) has erroneously deleted the addition

made under the head “expenditure incurred towards diesel and oil since the transactions have been made on various dates through cash in excess of the ceiling prescribed under section 40(a)(3) of the Act and pleaded for restoring the order passed by the Assessing Officer.

4. On the other hand, the Id. Counsel for the assessee has strongly supported the order of the Id. CIT(A).

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The only issue for consideration before us is whether the Id. CIT(A) was correctly deleted the addition made by the Assessing Officer under section 40(a)(3) of the Act or not. In the assessment order, the Assessing Officer has stated that during the course of original assessment proceedings, the assessee firm produced ledger account, copy of cash book furnished by the oil dealer of M/s. R.R. Agency for sale of Diesel and Oil. On perusal of the ledger copy, the Assessing Officer has noted that the assessee firm incurred an expenditure of ₹.54,99,019/- in various dates through cash in excess of the ceiling prescribed under section 40(a)(3) of the Act and the details are reproduced as under:

<i>Sl. No.</i>	<i>Date</i>	<i>Particulars</i>	<i>Amount</i>
1	05.04.2010	By cash	5,00,000
2	06.04.2010	By cash	3,00,000

3	09.04.2010	By cash	7,65,000
4	09.04.2010	By cash	65,000
5	09.04.2010	By cash	25,000
6	27.05.2010	By cash	9,00,000
7	15.06.2010	By cash	3,90,000
8	26.06.2010	By cash	1,10,000
9	30.07.2010	By cash	4,76,429
10	30.08.2010	By cash	9,70,000
11	30.08.2010	By cash	1,52,590
12	29.11.2010	By cash	5,00,000
13	08.02.2011	By cash	3,45,000
		Total	54,99,019

It was submitted before the Assessing Officer that the amount shown in the account copy of M/s. R.R. Agency as paid by the assessee firm in cash towards purchase of diesel and oil are not real and the assessee firm has not paid any amount to M/s. R.R. Agency towards purchase of diesel and oil in excess of ₹.20,000/- on any date during the period. It was further submitted that the cash book was only for entry for daily cash and other transaction. Whereas, the dealer M/s. R.R. Agency has stated in its confirmation letter dated 14.12.2016 that the transacting amount is being small, they had credited the accounts of M/s. Ram Blue Metal in lump sum after their receipt. However, the Assessing Officer has not accepted the explanations of the assessee for the reason that the confirmation of M/s. R.R. Agency is not reliable and rejected the same.

6. On appeal, after considering the entire facts and confirmation letter filed by M/s. R.R. Agency and gave a finding that the accounts of the

assessee are life-line of its business and there is enough evidence that the assessee did not make single payment exceeding ₹.20,000/- and it is of the case of the assessee is that the payments are made by the assessee for the purpose of day to day, transaction to transaction recording of oil/diesel purchased by the assessee. Thus, the Id. CIT(A) deleted the addition made by the Assessing Officer and relevant portion of the order is reproduced as under:

14. On merits too I find that the Assessing Officer had not discharged his onus of proving the confirmation filed by the supplier of goods or the recipient of the sale proceeds. He had dismissed this as an after-thought without causing any enquiries on initiating re-assessment proceedings at his hands to verify the availability of cash and bringing to tax deficiency, if any. The AR has shown that there was day to day, transaction to transaction recording of oil/diesel purchased by assessee, for without any internal control, there is a good chance that either oil/diesel will be pilfered and assessee will be overbilled. Even for seller of oil, it is necessary that details of each truck which comes for refilling be made, for how else will he bill his customers? and which customer will pay more for wrong billing. It is here, one can see that accounts is life-line of business. In light of the above, there is enough evidence that assessee did not make single payment exceeding Rs.20,000/- and hence, addition u/s 40A(3) appears to be incorrect. As the payments have been claimed to be below the threshold limit and admitted by the recipient to be so, I think there is no material warranting the AO to apply the provisions of Section 40A (3). Therefore I direct the deletion of the addition of Rs.54,99,019/-.

7. On perusal of the above order of the Id. CIT(A), we find that the Id. CIT(A) has reasonably considered entire facts of the case and rightly directed the Assessing Officer to delete the addition of ₹.54,99,019/-. We find no infirmity in the order passed by the Id. CIT(A) on this issue. Accordingly, the ground raised by the Revenue is dismissed.

8. Coming to the Cross Objections of the assessee, since the Id. Counsel for the assessee has prayed for withdrawal of the Cross Objection, the CO filed by the assessee is dismissed as withdrawn.

9. In the result, the appeal filed by the Revenue and the CO filed by the assessee are dismissed.

Order pronounced on 22nd December, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 22.12.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.