

।आयकर अपीलीय अधिकरण न्यायपीठ नागपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH : : NAGPUR

[VIRTUAL HEARING AT PUNE]

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.83/NAG/2020
निर्धारण वर्ष / Assessment Year :2014-15

The Dy.CIT, Circle-2, Nagpur.	V s	M/s.Central Cables Ltd., 5, Temple road, Civil Lines, Nagpur – 440001. PAN: AAACC7036R
Appellant / Revenue		Respondent / Assessee

Assessee by	Shri Sunil Surana, CA – AR
Revenue by	Shri Kailash G.Kanojiya – CIT-DR
Date of hearing	24/01/2024
Date of pronouncement	31/01/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Revenue against the order of Id.Commissioner of Income Tax(Appeals)-2, Nagpur dated 31.01.2020 emanating from assessment order under section 143(3) dated 28.12.2016 for A.Y.2014-15. The grounds of appeal raised by the Revenue are as under :

“1. *Whether on the facts and in the circumstances of the case and in law, the Ld CIT(A) -2, was justified on account of allowing and accepting the trading result of the assessee despite*

the audited books of accounts and supporting documents were not furnished before the A.O for verification and examination"?

2. *"Whether in the facts and circumstances of the case and in law the CIT(A)-2, Nagpur was justified on account of disallowance of travelling expenses despite the audited books of accounts and supporting documents were not furnished before the A.O for verification and examination"?*

3. *"Whether in the facts and in the circumstances of the case and in law, the Ld,CIT(A)-2, Nagpur was justified on account of allowing the bad debts written off by the assessee on the basis of submission made by the assessee during appellate proceedings and whether the CIT(A) was justified in allowing the deduction of Bad Debts ignoring the fact that the amounts were in nature of loans & advances and not fulfilling the provision of section 36(2) and without calling for the remand report from the A.O"?*

4. *"Whether on the facts and in the circumstances of the case and in law, the Ld,CIT(A), Nagpur was justified in denying opportunity to the assessing officer to examine the evidence in accordance to provisions of Rule 46A(3) of the Income Tax Rule, 1962"*

5. *Any other grounds of appeal at the time of hearing of the appeal."*

2. The Id.Departmental Representative(ld.DR) of the Revenue submitted that Id.CIT(A) had admitted additional evidence without giving opportunity to the Assessing Officer(AO) which is violation of Rule 46A of the Income Tax Rules.

3. The Id.Authorised Representative(ld.AR) of the assessee relied on the order of the ld.CIT(A).

Findings & Analysis :

4. We have heard both the parties and perused the records. The Assessing Officer has mentioned in the Assessment Order that the Assessee has failed to produce Sale Purchase Ledgers, books and other documents called for by the Assessing Officer during the Assessment Proceedings. On perusal of the ld.CIT(A)'s order, it is observed that there was additional evidence which is mentioned in the Assessee's submission which has been reproduced by Ld.CIT(A) in the order. Nowhere it is mentioned that opportunity was granted to the AO with reference to the additional evidence filed by the assessee. The procedure for admission of additional evidence is provided in Rule 46A of the Income Tax Rules. As per Rule 46A, it was mandatory for ld.CIT(A) to provide opportunity to the Assessing Officer to rebut the additional evidence filed by the assessee. As per Rule 46A it is mandatory for Ld.CIT(A) to record his satisfaction for admitting the Additional Evidence. No such satisfaction has been recorded by Ld.CIT(A).In this case, ld.CIT(A) has not

followed procedure laid down in the Rule 46A. Therefore, we agree with the submission of Ld.DRof the Revenue and accordingly, set-aside the order of the ld.CIT(A) for de-novo adjudication to ld.CIT(A). The ld.CIT(A) shall provide opportunity to both AO as well as Assessee. Accordingly, ground no.4 of the Revenue is allowed for statistical purpose.

5. Since we have set-aside the order of the ld.CIT(A) for denovo adjudication, the ground no.1 to 3 becomes academic in nature, hence dismissed as not adjudicated.

6. Ground No.5 is general in nature and needs no adjudication, hence dismissed.

7. In the result, appeal of the Revenue is allowed for statistical purpose.

Order pronounced in the open Court on 31st January, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 31st Jan, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच,
नागपुर/ DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.