

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 373/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2016-17)

Income Tax Officer, Vs. Green View UPVC Doors and
Ward-2(1), Windows Private Limited
Hyderabad Hyderabad
[PAN No. AAFCG6699F]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.C. Devdas, AR
राजस्व द्वारा/Revenue by: Shri Waseem UR Rehman, DR

सुनवाई की तारीख/Date of hearing: 27/02/2024
घोषणा की तारीख/Pronouncement on: 15/03/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Challenging the order dated 05/06/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Green View UPVC Doors & Windows Private Limited ("the assessee") for the assessment year 2016-17, Revenue preferred this appeal.

2. Brief facts of the case are that the assessee is a private limited company and filed its return of income for the assessment year 2016-17 on 17/10/2016, declaring an income of Rs. 2,58,570/-. During the assessment proceedings, learned Assessing Officer found that in the relevant assessment year, the assessee shown sundry creditors / trade payables at Rs. 3,20,45,062/- in the Balance Sheet and requested the assessee to furnish the details of sundry creditors amounting to Rs.3,20,45,062/- with documentary evidences. On the ground that the assessee did not furnish any such information, the sundry creditors / trade payables were treated as not genuine and treated as undisclosed income of the assessee and added to the total income of the assessee. Learned Assessing Officer accordingly concluded the assessment by making the addition of Rs. 3,20,45,062/-.

3. During the first appellate proceedings, the assessee submitted certain documentary evidence and the learned CIT(A) called for remand report. In the remand report, the learned Assessing Officer opined that the sundry creditors to the tune of Rs.1,12,39,396/- out of Rs.2,40,95,330/- was satisfactorily explained; share application money to the tune of Rs. 75,34,200/- was not found to be satisfactorily explained; whereas Rs. 3,69,381/- towards provisions and Rs. 46,152/- towards duties and taxes were satisfactorily explained.

4. Learned CIT(A) noted the contents of the remand report and the reply of the assessee on these aspects and jumped to the conclusion that all the new entries of the sundry creditors are satisfactorily explained. Same is the case with share application money. Learned CIT(A) did not discuss the merits of the case with reference to the findings of the learned

Assessing Officer but has taken up the question as to the remission or cessation of trading liability and applicability of clause (a) of sub-section 1 of section 41 of the Act in the light of various decisions.

5. Learned DR challenged this approach of the learned CIT(A), stating that till the learned CIT(A) had chosen to raise and answer this question as to the remission or cessation of trading liability and applicability of clause (a) of sub-section 1 of section 41 of the Act, it was nobody's case and learned CIT(A) mis-directed himself by entering into this enquiry. He submitted that basing on the same material that was forwarded by the learned CIT(A), the learned Assessing Officer offered his comments, accepting proper explanation in respect of a sum of Rs. 1,12,39,396/- out of the total amount of Rs. 2,40,95,330/- and also the addition covered by the provision and duties and taxes, while rejecting a part of the trade creditors and the share application money. The learned CIT(A) instead of giving cogent reasons for differing with the learned Assessing Officer on these aspects, dealt with a question hypothetically and while answering the same academically, deleted the additions.

6. Though the learned AR tried to justify the orders of the learned CIT(A), he could not establish that at any time prior to the learned CIT(A) dealing with the hypothetical question of remission or cessation of trading liability and applicability of clause (a) of sub-section 1 of section 41 of the Act in the light of various decisions, the assessee or the learned Assessing Officer took such a plea. Apart from this, the learned CIT(A) started dealing with this question at paragraph No. 8.1 in respect of the sundry creditors to the tune of Rs. 2,40,95,330/-, but by paragraph No. 9, he deleted the entire addition of Rs. 3,20,45,062/-.

7. On a careful consideration of the circumstances, we are of the considered opinion that the impugned order needs to be set aside and the issue to be restored to the file of the learned CIT(A) for fresh disposal of the case, taking into consideration all the material that is produced by the assessee more particularly the information furnished by the assessee between page Nos. 67 and 218 of the paper book, after affording an opportunity to the assessee.

8. In the result, appeal of the Revenue is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 15th day of March, 2024.

Sd/-

(RAMA KANTA PANDA)
VICE PRESIDENT

Hyderabad,
Dated: 15/03/2024

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

TNMM

Copy forwarded to:

1. The Income Tax Officer, Ward-2(1), Hyderabad.
2. Green View UPVC Doors and Windows Private Limited, Flat No. 115,
Maturu Apartments, AC Guards, Hyderabad.
3. The Pr.CIT-Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD