

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.179/Bang/2024
Assessment Year: 2020-21

Ginkloru Gangareddy 181K, Kerekondapura Rampura Village Molakalmuru Taluk Chitradurga Karnataka 577 540 PAN NO : BZOPG1732P	Vs.	ITO Ward-1 Chitradurga
APPELLANT		RESPONDENT

Appellant by	:	Ms. Sai Pavani, A.R.
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Department.

Date of Hearing	:	08.04.2024
Date of Pronouncement	:	15.04.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal at the instance of assessee is directed against CIT(A) order vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1058835434(1) dated 18.12.2023 for the assessment year 2020-21.

2. Facts of the case are that the assessee in the present case is running a proprietary concern and engaged in the business of distributorship to Reliance Jio and Sun Direct under the trade name of “Shri Maruthi Agencies”. The assessee filed original return on 2.11.2020 declaring total income of Rs.5,47,610/- for the assessment year 2020-21. The case was then selected for complete scrutiny under CASS on the ground that assessee has claimed large commission expenses and shown low net profit. The only issue the

assessee has raised before us that the commission and brokerage received amounting to Rs.26,54,109/- although declared as part of sale credited to Profit & Loss account, but the ld. AO on the alleged ground that the assessee has not responded to the show cause notice and in the absence of clarification/evidence, the commission receipt of Rs.26,54,109/- was added to the total income of the assessee. Before us, the assessee has raised following grounds:

1. Commission/Brokerage receipts – Rs.26,54,109/-

- a) The assessee has furnished the sales ledger for substantiating the learned AO query.*
- b) The assessee has offered the income reflecting in the form 26AS. As it is already included in the return of income declared, further addition by the learned AO leads to double taxation of income.*
- c) The assessee is illiterate he is not in a position to explain or provide the required reconciliation, the learned AO has passed the order without further verification of sales ledger produced by the assessee.*

2. Discount allowed Rs.8,45,879/-

- a) The assessee is in the business of distribution of Jio hand sets and Sun Direct DTH boxes, the assessee is getting payout from the vendors along with the commission income.*
- b) Further the assessee has received the GST amount as reimbursement and discount/payout from his vendors which was offered as discount received under indirect income.*
- c) The very similar way, the assessee has passed the reimbursement & payout/discount to his distributors and accounted as discount paid.*
- d) During the course of the assessment the assessee has submitted the discount ledger along with name of party and amount provided as payout/discount..*
Total tax effect 10,55,302/-.

3. The ld. CIT(A) although agreed on the fact that the said commission brokerage of Rs.26,54,109/- shown as part of sale, but he dismissed the ground Nos.1(a), 1(b) & 1(c) on the basis that the assessee has failed to explain and justify as to why the commission shown as a part of sales by the assessee. In absence of proper justification and considering the facts of the case, ld. CIT(A) has considered the addition made by ld. AO to be justified and deserve to

be sustained and upheld. Aggrieved by the order of Id. CIT(A), the assessee filed this appeal before us.

3.1 During the course of proceedings, the Id. A.R. argued before us that during the course of assessment proceedings, all the books of accounts along with various details were submitted as mentioned in para 3.2 of the assessment order. The Id. AO has agreed that the assessee has claimed the commission receipt as sales, whereas as per form No.26AS, these are reflecting as commission and contract receipts, which is reproduced as under:

Sl.No.	TDS Deducted u/s	Name of deductor	Total amount paid	TDS deducted
1	194H	United India Marketing Pvt. Ltd.	2,62,157	13,107
2	194H & 194C	Sun Direct TV Private Ltd.	13,60,323	59,490
3	194H	Reliance Retail Limited	10,31,627	51,586
		Total	26,54,109	1,24,183

3.2 The assessee had also furnished a ledger of commission sales without any reconciliation before the Id. AO.

3.3 On the other hand, the Id. D.R. vehemently supported the order of Id. CIT(A).

4. We have heard the rival submissions and perused the materials available on record. The main issue in dispute is with regard to inclusion of Rs.26,54,104/- commission received in the income of the assessee, which is subject to TDS. The Id. D.R. submitted that this amount is not part of the sales disclosed by the assessee in its books of accounts. Hence, it is to be brought to tax separately. Contrary to this, the Id. A.R. submitted that this was the part of sales shown in the Profit & loss account. In our opinion, this fact is required to be examined at the end of Id. AO for which assessee has to furnish the Form No.26AS and to reconcile with the sales and

commission received by the assessee. With this observation, we remit this issue in dispute to the file of Id. AO for fresh consideration.

4.1 Regarding ground No.2, no argument has been put before us, hence not considered for adjudication and the same is dismissed.

5. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 15th Apr, 2024

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 15th Apr, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.