

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI S. R. RAGUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./ITA Nos.: **976 & 977/Chny/2023**

निर्धारणवर्ष / Assessment Years: 2014-15 & 2015-16

Bharani Velli Maaligai,
387,
Nethaji Road,
Erode – 638 001.

[PAN: AAJFB-1409-M]

(अपीलार्थी/Appellant)

Assistant Commissioner of
v. Income Tax,
Circle -1,
Erode.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओरसे/Appellant by
प्रत्यर्थी की ओरसे/Respondent by

: Shri. S. Sridhar, Advocate
: Shri. N. Sanjay Gandhi, JCIT

सुनवाई की तारीख/Date of Hearing

: 12.06.2024

घोषणा की तारीख/Date of Pronouncement

: 12.06.2024

आदेश /ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

These two appeals filed by the assessee are directed against the common order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment years 2014-15 & 2015-16 both dated 28.07.2023. Since, facts are identical and issues are common, for the sake of convenience,

these appeals were heard together and are being disposed off, by this consolidated order.

2. The only ground for both the assessment years is disallowance of coolie charges claimed as an expenditure by the assessee for the assessment year 2014-15 of Rs.1,46,39,147/- and for the assessment year 2015-16 of Rs.4,10,11,355/-.

3. The brief facts of the case are that, the assessee a partnership firm engaged in the business of manufacturing and trading in silver ornaments, silver vessels and also trades in diamond, gold, precious stone. The assessee had filed its return of income on 29.11.2014 for the assessment year 2014-15 and for assessment year 2015-16 on 30.10.2015, declaring total income of Rs.33,96,850/- and Rs.47,64,990/- respectively.

4. The assessee's case was selected for scrutiny through CASS and notices were issued u/s. 143(2) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for both the assessment years. During the assessment proceedings, the Assessing Officer called for the details of ledger account

towards expenditure made on coolie. On perusal of the documents filed by the assessee before the Assessing Officer, it is noticed that the entire expenditure has been paid to the assessee's related parties by way of accepting the reduction in weight to the extent of 17.70% of the silver articles compare to the gross weight given for making silver articles.

5. The Assessing Officer arrived at the conclusion that the coolie payments made to the related parties are not genuine and hence, the said coolie expenses are to be disallowed and added to the income. The relevant extract of the impugned order is as under:

"In the present case assessee has got back ornaments with weight weighing less by 17.60%, implying that the artisans have charged their coolie in kind by retaining that percentage of silver. Thus, the coolie .expense of assessee for converting the old ornaments into new one is already absorbed in the form of depletion in stock, which ultimately result in reduction in closing stock value and thereby effecting the net profit. Thus, there arises no question of giving any set-off to assessee as cost for refurbishing/remoulding of o\d ornaments. as this cost is already absorbed by reducing the quantity of stock and declaring the profit accordingly."

6. Aggrieved by the impugned order, the assessee preferred an appeal before the Id.CIT(A). The assessee before the first appellate authorities submitted that, the expenditures of coolie has been paid to the artisans and corresponding TDS u/s. 194C of the Act has also been made and remitted to the

department. Further, before the Id.CIT(A) in support for their claim for accepting the finished articles lesser than the gross weight by 17.70%, they stated as below:

*"During the year, we have purchased old silver ornaments totaling to Rs. 10,58,96,819/During our business, we have purchased old silver ornaments from customers on the market price on the respective purchase date. However, we pay only for the 70% of grams bought i.e. standard 30% reduction on account of impurities and reduction of quality. Further, in the bought notes, we mention the total quantity (in grams) bought and we record a 30% wastage (only for the purpose of calculating the purchase price) while purchasing from the customers. Therefore, we record the total grams as ornaments bought but we only pay for the total grams less 30% on account of wastage multiplied by the market price per gram on the respective date. Sample of Copies of Bought Notes purchased in support of the above explanation is herewith enclosed for your consideration in **Annexure-I.**"*

7. On perusal of the relevant submissions and documents, the Id.CIT(A) confirmed the order of the Assessing Officer on disallowance of coolie charges as detailed below:

"7.6 The argument placed by the appellant was countered in the assessment order stating that during the year assessee had shown to have purchased old silver ornaments totaling to Rs.10,58,96,819/- and had been given to Shri Natarajan and Shri Bharanidharan for refurbishing/remolding. The AO examined the job order return sheet and found that the articles were received with a reduction in weight of 17.70%. Therefore, the job work has been charged in kind by retaining of 17.70% of silver/gold. Thus, the plea of the appellant that coolie expenses have been paid in cash to Shri Natarajan and Shri Bharanidharan doesn't stand as coolie expenses has already been paid in kind which has resulted in reduction of closing stock.

7.7 Further, the plea of the appellant that TDS has been deducted on the payment of coolie expenses as per provision of 194C also doesn't stand as mere TDS deduction would not make the expense as legitimate. Apart from the above, during assessment

*proceedings, the AO recorded the statement of Shri Natarajan and Shri Bharanidharan, who even failed to list the name of few job workers to whom they sub-contracted the artisan work. They could not produce the copy of bills raised to the firm and the basis of working of coolie amount. The coolie expenses claimed by the appellant is not genuine resulted in inflation of expenditure thereby reducing the profit element. It is also noted by AO that Sh. Bharanidharan and Sh. Natarajan had gifted Rs 10,00,000/- each to the partners of appellant firm. Appellant could not substantiate their creditworthiness either before AO or during appellate proceedings. This gives credence to the **AO's** finding that the entire scheme of booking coolie expenses was created to divert fund from the appellant firm.*

7.8 In such a scenario, I find no infirmity in the action of the AO of disallowing coolie expenses to the tune of Rs.1,46,39,147/- and added to the total income of the appellant. In this view of the matter, the decision of the AO is upheld. Consequently, the Ground Nos. 2 to 4 are dismissed."

Aggrieved by the impugned orders of the Id.CIT(A), the assessee preferred an appeal before us.

8. Before us, the Id.AR of the assessee stated that it is impossible to carry out any business of manufacturing of articles without incurring expenditure on coolie and labour charges. The Id.AR placed on record a tabular form of turnover and corresponding coolie expenditure made by the assessee for the assessment years 2013-14 to 2016-17 which are given below:

Particulars	AY 2013-14	AY 2014-15	Ay 2015-16	AY 2016-17
Turnover	14,51,37,437.00	20,50,02,401.00	42,44,56,706.00	55,95,48,640.23
Coolie expense	91,42,288.00	1,50,06,147.00	4,50,06,625.00	5,05,89,150.00

Coolie expenditure to turnover ratio	6.30%	7.32%	10.60%	9.04%
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9. Further, the assessee has maintained proper books of accounts which have been duly audited and filed with the income tax department on regular basis. The Assessing Officer and the Id.CIT(A) has erred in disallowing entire amount of coolie charges without rejecting the books of accounts. The expenditure of coolie charges has been properly recorded in the books of accounts and claimed as expenditure after complying with the provisions of TDS u/s. 194C of the Act in both the assessment years. Therefore, the impugned orders of disallowing the expenditure of coolie charges entirely by the Assessing Officer may please be deleted.

10. Per contra, the Id.DR stated that the expenditure claimed is totally disproportionate percentage to the turnover declared by the assessee. Further, entire amount of coolie charges has been paid to the related parties of the assessee, which is shown in column no. 23 of the tax audit report filed for the relevant assessment years. Therefore, the Id.DR pleaded to

uphold the orders of both the Assessing Officer and that of the Id.CIT(A).

11. We have heard the rival contentions, perused materials available on record and gone through orders of the authorities below. It is an admitted fact that the assessee is a partnership firm, engaged in the business of manufacturing of silver and gold articles. Further, the turnover of the assessee has been increased year on year as shown in table in the preceding paragraph no.8. It is an accepted fact that no new articles can come into existence without incurring any expenditure towards labour and like charges. Therefore, the expenditure of coolie/labour charges is inevitable for any manufacturing industry. In the present case, the assessee has achieved the turnover of Rs.20.50 crores for the assessment year 2014-15 and Rs.42.44 crores for the assessment year 2015-16. The assessee has incurred corresponding coolie/labour charges of Rs.1.50 crores and Rs.4.50 crores respectively, for the assessment years 2014-15 and 2015-16. It is impractical to achieve the above said turnover without incurring any amount of coolie/labour charges as disallowed by the Assessing Officer and which is confirmed by the Id.CIT(A).

However, the expenditure of coolie and labour charges claimed by the assessee for the assessment years 2014-15 and 2015-16 is on a higher side compare to the earlier assessment year 2013-14, inspite of incremental turnover achieved by the assessee. The quantum of expenditure has increased disproportionately to the incremental turnover to the extent of 3 to 4% when compare to the earlier assessment year. Therefore, to meet the ends of justice, we are of the considered view that the claim of the expenditure towards coolie and labour charges is essential, however it is on a higher side and the disallowance is restricted to 30% of the coolie/labour charges disallowed by the Assessing Officer. The disallowance of coolie/labour charges restricted to 30% as detailed below:

AY	Disallowance confirmed by Id.CIT(A)	30% of disallowance
2014-15	1,46,39,147	43,91,744
2015-16	4,10,11,355	1,23,03,406

The Assessing Officer is directed to re-compute the total income after restricting the disallowance of coolie/labour charges to 30% as above.

12. In the result, appeals filed by the assessee for both the assessment years are partly allowed.

Order pronounced in the Open court on 12th June, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष/Vice President

Sd/-
(एस. आर.रघुनाथा)
(S. R. RAGUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 12th June, 2024

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF