

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

Before Sh. Kul Bharat, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 6848/Del/2018 : Asstt. Year : 2001-02

M/s Birla Aircon, 35/15, Purani Delhi Chungi, H.K. Jain, Adv. Meerut-250001	Vs.	ACIT, Circle-1, Meerut-250001
(APPELLANT)		(RESPONDENT)
PAN No. AACFB3156E		

**Assessee by : Sh. Shivam Garg, Adv. &
Sh. Raghav Sharma, Adv.**

Revenue by : Sh. Kanav Bali, Sr. DR

Date of Hearing: 25.04.2024

Date of Pronouncement: 28.06.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A), Meerut dated 28.08.2018.

2. Following grounds have been raised by the assessee:

"1. On the facts and circumstances of the case, the CIT(A) has erred on facts as well as on law in sustaining the order of AO.

2. On the facts and circumstances of the case, the CIT(A) has erred in observing that the books of accounts were there with the assessee and it has deliberately not produced the same before the AO ignoring that books were seized by the Excise and Custom Department.

3. On the facts and circumstances of the case, the CIT(A) has erred in holding that AO was correct in not issuing the summon u/s 131 to Custom Department for release of books.

4. On the facts and circumstances of the case, the CIT(A) has erred in sustaining the addition of Rs.8,63,000/- made by the AO on account of disallowance of interest paid on unsecured loans.

5. On the facts and circumstances of the case, the CIT(A) has erred in sustaining the addition of Rs.32,00,000/- made by the AO on account of securities received from the customers.

6. On the facts and circumstances of the case, the CIT(A) has erred in sustaining the addition of Rs.5,00,000/- made by the AO on account of advances received from the customer.

7. On the facts and circumstances of the case, the CIT(A) has erred in sustaining the addition of Rs.8,11,817/- on account of unaccounted purchases made by the assessee.

8. On the facts and circumstances of the case, the CIT(A) has erred in sustaining the addition of Rs. 27,70,641/- on account of profit earned on unaccounted sales."

3. The assessee is a firm engaged in manufacturing and sale of ACs, gysers and water coolers etc. The assessee filed return of income on 31.10.2001 declaring loss of Rs.7,93,970/-. The case of the assessee was selected for scrutiny and assessment u/s 143(3) of the Income Tax Act, 1961 has been framed on 29.03.2004 assessing the income of Rs.1,24,25,740/-.

4. Aggrieved, the assessee filed appeal before the Id. CIT(A) who affirmed the order of the Assessing Officer on the following additions:

1. Disallowance of interest paid on unsecured loans - Rs.8,63,000/-
2. Securities received from customers - Rs.32,00,000/-
3. Advances received from the customer - Rs.5,00,000/-

4. Unaccounted purchases made by the assessee –
Rs.8,11,817/-
5. Profit earned on unaccounted sales – Rs.27,70,641/-

Interest paid:

5. The assessee paid interest of Rs.10,50,000/- on account of unsecured loans which includes interest paid Rs.17,000/- each to 11 persons totaling to Rs.1,87,000/-. The Assessing Officer disallowed the interest expenditure of Rs.8,63,000/- holding that the maximum loan outstanding was Rs.14,12,933/-. We hold that disallowing the interest by considering the maximum outstanding balance only is not the right way to compute the allowable interest payment. Hence, the AO is directed to take into consideration the loans taken by the assessee in allowing the interest. The assessee also shall produce the relevant bank statement of the loan parties to prove the factum of extending the loans to the assessee.

6. In the result, the appeal of the assessee on this ground is set aside to the Assessing Officer.

Securities and Advances:

7. Before the revenue authorities, the assessee has failed to furnish the details of the parties from whom the securities were received. The assessee shall produce the relevant bank statement of the parties to prove the factum of extending the securities/advances to the assessee.

Stock and Profit:

8. This issue has got originated owing to the search conducted by Central Excise of the assessee which was subjected to series of Writ Petitions before the Hon'ble High Court and orders of the Hon'ble CESTAT. The final order has been passed by the Commissioner, Central Excise. The assessee shall produce various orders of the Central Excise authorities before the AO which the AO shall take due cognizance of determining the unaccounted stock and undeclared profit and the seed capital employed.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 28/06/2024.

Sd/-

(Kul Bharat)
Judicial Member

Dated: 28/06/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR