



।आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

**BEFORE SHRI SATBEER SINGH GODARA,
JUDICIAL MEMBER AND
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No.898/PUN/2024
निर्धारण वर्ष / Assessment Year:2017-18

Shreem Electric Limited, Plot No.43 to 46, L.K.Akiwate Industrial Estate, Jaysingpur, Shirol, Kolhapur – 416144. PAN: AACCS4893C	V s	The Assistant Commissioner of Income Tax, Central Circle, Kolhapur.
Appellant / Assessee		Respondent / Revenue

Assessee by	None
Revenue by	Shri Sourabh Nayak -Addl.CIT(DR)
Date of hearing	31/07/2024
Date of pronouncement	31/07/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by Assessee against the order of Id.Commissioner of Income Tax(Appeal), Pune-11passed under section 250 of the Income tax Act, dated 31.01.2024 for the A.Y.2017-18. The assessee has raised the following grounds of appeal :

"1. The Learned CIT(A) erred in confirming penalty under section 270A of Rs.3,01,124/-.



2. *The learned CIT(A) failed to appreciate that, since the addition is made on adhoc basis, no penalty can be levied.*

3. *The penalty levied may please be delete.*

4. *The appellant craves leave to add, alter, amend or delete any of the Above grounds of appeal.”*

2. There is a delay of two months of filing appeal before this Tribunal. Considering the reasons mentioned in the Affidavit, we are convinced with the reasons for delay and in the larger interest of justice, we condone the delay.

3. At the outset of hearing, none appeared for the assessee nor any adjournment letter filed. Even on earlier hearing i.e.08.07.2024 no one had appeared and no adjournment letter was filed. In these facts and circumstances, we heard the appeal ex-parte.

4. We have heard ld.DR for the Revenue and perused the records.

5. In this case, Assessing Officer(AO) has levied penalty u/sec.270A of the Act of 200% on account of under-reporting in consequences of mis-reporting of income. The assessee's case was reopened for A.Y.2017-18 for the alleged reasons that assessee had



received accommodation entry from M/s.ABN Trade Link Pvt. Limited. During the assessment proceedings, assessee submitted an affidavit that there were no purchases from ABN Trade Link Pvt. Ltd., during the year. Therefore, the Assessing Officer(AO) sought information from the Investigation Wing, Mumbai. The Investigation Wing, Mumbai submitted that M/s.RadianceMultitrade Pvt. Ltd., had provided accommodation entries of Rs.1,26,32,550/- to M/s.Shreem Electric Ltd., for F.Y.2016-17. The assessee was asked to file a reply by the Assessing Officer. The relevant paragraph appearing in the penalty order is reproduced here as under :

“ The assessee in reply stated that it had purchased vacuum drying and impregnation plant for capacitors and PLC based automation machinery from M/s Radiance Multitrade Pvt. Ltd. for consideration of Rs.1.41,08.550/- inclusive of VAT. In support, the assessee submitted copies of ledger extract, quotation, purchase bills, LR copies, installation certificate of inspector etc. The AO had considered the submission of the assessee. On verification it was seen that the assessee had capitalized the purchases in fixed assets on which depreciation was claimed. In the circumstance in the case of M/s Shreem construction which is belonging to the assessee group, the Ld.CIT(A) for AY 2007-08 and 2008-09 restricted the disallowance to 20% of total purchases from suspicious dealers. Borrowing the analogy from the decision of CIT(A) and after considering the evidence submitted by the



assessee in support of purchase of machinery, the AO disallowed the depreciation to the 20% on account of machinery purchases from M/s Raidance Multi Trade Pvt. Ltd. Further, the AO also initiated penalty u/s 270A of the Act for underreporting of income in consequence of misreporting of income.”

6. Thus, in this case, in the assessment order, AO has not disallowed the so-called purchases made from Radiance Multitrade Pvt. Limited. It means, AO accepted genuineness of these purchases. All the details related to purchases were filed by the assessee. However, AO has disallowed an estimated 20% of depreciation on account of machineries which were purchased from Radiance Multitrade Pvt. Ltd., Thus, AO has merely made an ad-hoc disallowance of depreciation. Though in the penalty order, it is alleged that there were bogus purchases, however, in the assessment order, Assessee has not disallowed the so-called bogus purchases. In this case, books of accounts has not been rejected by the Assessing Officer(AO). Therefore, in these facts and circumstances of the case, when assessee has accepted the genuineness of the purchases, the ad-hoc disallowance of depreciation cannot be held to be underreporting of income in consequence of misreporting of income, as per section 270A(6) of the Act. Therefore, we direct the Assessing Officer to delete the



penalty. Accordingly, grounds of appeal raised by the assessee are allowed.

7. In the result, appeal of the assessee is allowed.

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

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

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

पुणे / Pune; दिनांक / Dated : 31st July, 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, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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