

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES, "SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 527/JP/2024  
निर्धारण वर्ष / Assessment Year : 2022-23

Shri Vijay Galav 9-F-38, Mahavir Nagar-III Kota	बनाम Vs.	The DCIT Circle-2 Kota
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABRPG 5805 D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Dinesh Kumar, Advocate  
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 19/06/2024  
उदघोषणा की तारीख / Date of Pronouncement: 08/08/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. Addl. CIT(A)-1, Pune dated 29-02-2024 for the assessment year 2022-23 raising therein following ground of appeal.

“That the ld.CIT(A) has grossly erred in law and on facts of the case in maintaining the order of CPC u/s 143(1) of the Act in disallowing the credit of TDS amounting to Rs.1,96,645/- despite the fact that such TDS is duly accounted in Form 26AS.

2.1 Apropos solitary ground of the assessee, the facts as emerges from the order of the ld. CIT(A) who has partly allowed the appeal of the assessee by observing at para 5.1.2 of his order.

“5.1.2 It is found that in its Return of Income the appellant has claimed credit of TDS amounting to Rs. 13,39,657/-. However, at the time of processing the return of credit of TDS was confined to Rs. 11,43,012/-only and the credit of balance amount of Rs 1,96,645 was disallowed since it was found mismatched as in Form 26AS. Vide present appeal the appellant has claimed credit of Rs. 1,96,645/-as TDS. In support of its claim, sufficient documentary evidences were not filed by the appellant. The turnover already shown in FY 2019-20 wasn't substantiated with the help of sufficient documentary evidences like bills, vouchers, ledger account of the parties whose sells are shown in FY 2019-20 but TDS is seen to be deducted in FY 2021-22. So, short turnover of Rs 1,09,88,889 in FY 2021-2022 as turnover for parties EE, PWD, Div. Baran and Rhppa, Jaipur is not substantiated with the sufficient documentary proofs. Hence, the claim and rationale of the appellant for short turnover on account of the turnover claimed in FY 2019-20 is hereby rejected. Further, claim of Short turnover of Rs 19,25,582 on account of GST value vis a vis actual value by department is hereby rejected due to non-submission of sufficient documentary evidences like GST return, partywise ledgers of the appellant. In totality, the mismatch of turnover wasn't explained before me with the help of sufficient documentary evidences by the

appellant. Hence, the claim of TDS of Rs. 1,96,645/- can't be allowed to the appellant.

In view of the above, this ground of appeal is treated as PARTLY ALLOWED.’’

2.2 During the course of hearing ld. AR of the assessee filed an application under rule 29 of Income Tax (Appellate Tribunal) Rules 1963 for taking additional evidence on record. In support of the application, the ld. AR submitted that although the Appellant had filed all the relevant documents in support of its claim before ld. Addl. CIT(A) but the claim of the assessee was rejected with the observation that ledger accounts of parties were not filed by the appellant to substantiate the claim of turnover being disclosed in the financial year 2019 - 2020. Therefore now the appellant is filing the additional evidence in the form of ledger copies of the parties to substantiate its claim that turnover of the above parties were already disclosed in the financial year 19-20. It was further argue that material and necessary documents for proper adjudication of issue in question would meet the ends of justice .

2.3 On the other hand ld. DR opposed the application of the appellant regarding taking the additional evidence on record as they were not placed before the ld. Addl. CIT(A) during the appellate proceedings

2.4 After having heard the Counsels for both the parties and after going through the orders passed by the revenue authorities I found that the additions in the present case were made primarily on account of mismatch in form number 26AS and while declining the claim of the assessee, the ld. Addl CIT(A) has categorically mentioned that the assessee could not substantiate his claim by placing on record necessary documents. Therefore in my view, the documents now produced are necessary and imperative to effectively decide the controversy between the parties to meet the ends of justice. Thus the additional evidence as raised by the ld. Counsel for the assessee is admitted. Further, from the entirety of the facts and circumstances of the case, the Bench feels that one more chance should be given to the assessee to represent his case before the ld. addl. CIT(A) to substantiate its claim that the turnover of parties namely RHPPA, Jaipur and EE, PWD Divisional First, Baran were already disclosed in the financial year 2019-20. I am of the view that lis between the parties has to be decided on merits so that nobody's rights could be scuttled down without providing opportunity of being heard to the assessee. Hence, the matter is restored to the file of the ld. addl. CIT(A) to decide it afresh by providing one more opportunity of hearing, however, the assessee will not seek any adjournment on frivolous ground and remain cooperative during the course of proceedings. Thus the appeal of the assessee is allowed for statistical purposes.

2.6 Before parting, the Bench makes it clear that its decision to restore the matter back to the file of the ld. addl. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by ld. addl. CIT(A) independently in accordance with law.

3.0 In the result, the appeal of the assessee is allowed for statistical purposes with no orders as to costs..

Order pronounced in the open court on 08/08/2024.

Sd/-

(संदीप गोसाईं)  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 08/08/2024

\*Mishra

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Vijay Galav, Kota
2. प्रत्यर्थी / The Respondent- The DCIT, Circle-2, Kota
3. आयकर आयुक्त / The ld CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File (ITA No. 527/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar