

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 660/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2012-13)

Raja Rajeshwara Swamy Rice Mill Vs. Income Tax Officer
Hyderabad Ward-1
[PAN : AAIFR8385F] Nizamabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Sri P.Murali Mohan Rao, AR
राजस्व द्वारा/Revenue by: Sri Rajan Agrawala, DR

सुनवाई की तारीख/Date of hearing: 25/07/2024
घोषणा की तारीख/Pronouncement on: 16/08/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 13/05/2024 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Raja Rajeshwara Swamy Rice Mill ("the assessee") for the assessment year 2012-13, assessee preferred this appeal.

2. Brief facts of the case are that assessee is a firm, engaged in the business of rice mill, namely, milling of paddy and trading in rice and its by-products. It filed its return of income for the assessment year 2012-13, declaring an income of Rs.13,230/-. Subsequently, on receiving information from the Commercial Tax Officer, Bodhan about the short payment of sales tax, the learned Assessing Officer issued notice u/s 148 and reopened the proceedings, but the assessee failed to respond to the

notice, nor did furnish the requisite information. Learned Assessing Officer, therefore, added a sum of Rs.10,11,359/- said to have been paid by the assessee towards CST and VAT payments.

3. Assessee preferred appeal before the learned CIT(A). Learned CIT(A) in the impugned order observed that since the assessee failed to produce the documents as required by the learned Assessing Officer, adverse inference in terms of section 114 of the Evidence Act has to be raised. Learned CIT(A) accordingly upheld the addition and dismissed the appeal.

4. Aggrieved by such an order, assessee preferred appeal before us stating that the learned CIT(A) erred in dismissing the appeal and confirming the addition made by the learned Assessing Officer. Learned AR submitted that due to absconding of the accountant, they are unable to produce any evidence other than the DCB report in respect of CST and VAT and to establish that there was no existing demand, which un-mistakably indicate that the amounts were properly paid. Learned AR prays that the learned Assessing Officer may be directed to consider the aspect that the VAT payment cannot separately be established, because such an amount is included in the challan and the payment of CST and VAT could be inferred from the non-existence of any demand.

5. Learned DR submitted that in the absence of any evidence whatsoever, the authorities are justified in denying the claim of the assessee. He submits that the new plea taken by the assessee that the payments towards CST and VAT could be inferred through DCB reports and the non-existence of any demand in force, needs factual verification and per se the assessee is not entitled for any relief.

6. Learned AR submitted that on identical circumstances, a Co-ordinate Bench of this Tribunal in the case of M/s Sri Gurukrupa Agro Industries Vs. DCIT in I.T.A.No.30/Hyd/2023 by order dated 20/07/2023 restored the issue to the file of the Assessing officer with a direction to take into consideration the DCB reports and to consider the same in the light of the existence or otherwise of demand, if any for the relevant period towards CST and VST amounts proper payment.

7. I have gone through the record, including the decision of the Co-ordinate Bench of this Tribunal in the case of M/s Sri Gurukrupa Agro Industries (supra) in the light of the submissions made on either side. It could be seen from the impugned order that the plea of the assessee is that all the relevant material was kept with the accountant, who absconded himself without handing over any challans or other material. The assessee produced the DCB reports in respect of CST and VAT and submits that if there is any doubt in respect of non-existence of any demand in force, such a fact could be verified from the concerned departments and merely because the challans are not available with the assessee, assessee cannot be fastened with huge liability. I agree with the submission of the learned DR that DCB reports and the submissions of the assessee that non-existence of demand would only go to show that there were proper payments to the concerned department, needs factual verification. I, therefore, further direct the learned Assessing Officer to take into consideration the DCB reports also and to consider the same in the light of the submissions of the assessee that non-existence of any demand for the relevant period towards CST and VAT amounts proper payment. I hold and direct so. Grounds are accordingly treated as allowed for statistical purposes.

8. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 16th day of August, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 16/08/2024

Copy forwarded to:

- 1.Raja Rajeshwara Swamy Rice Mill, C/o P.Murali & Co Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad
2. The Income Tax Officer, Ward-1, Nizamabad.
- 3.The Pr.CIT, Hyderabad
- 4.DR, ITAT, Hyderabad.
- 5.GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD