

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "G" Bench, Mumbai.

Before Shri Satbeer Singh Godara (JM) & Shri Omkareshwar Chidara (AM)

I.T.A. No. 2204/Mum/2024 (A.Y. 2014-15)

ITO, Ward 3(2) Room No. 4 6 th Floor Ashar IT Park Wagle Estate Thane-400 604.	Vs.	Sachin Laxman Jangid 1 Mandillia House Ramesh Pradhan Road Naupada, Thane Maharashtra-400 602. PAN : ADBPJ0867C
(Appellant)		(Respondent)

Assessee by	Shri Sanjiv Brahme
Department by	Shri Virabhadra Mahajan
Date of Hearing	23.07.2024
Date of Pronouncement	26.08.2024

O R D E R

Per Omkareshwar Chidara (AM) :-

In the case of Shri Sachin Laxman Jangid, only point of dispute between the appellant and Department is whether the learned Assessing Officer (Ld. AO) is correct in making the addition of contract receipts.

2. There is a difference between contract receipts offered by the appellant and amount reflected in 26AS. As per 26AS statement, the total contract receipts of the appellant are Rs. 6,68,07,310/- whereas the appellant has admitted contract receipts amounting to Rs. 4,01,90,512/-. Difference amount of Rs. 2,66,16,798/-was added by the Ld. AO while completing assessment as the appellant did not file proper explanation for not offering these contract receipts. The Ld.AO is of the view that the explanation given for the difference in the amount is without any documentary evidence and hence rejected. The appellant has stated that certain works in four projects could not be done fully and project Akruti Jay Developers was abandoned

because the contractors did not pay the bills fully. The appellant has submitted before the Ld. AO that all the amounts received by him were accounted properly in the Profit and Loss Account. But the Ld. AO did not believe the explanation filed by the appellant and added the difference between 26AS statement and the amount reflected in the Profit and Loss Account filed by the appellant.

2. Aggrieved by the addition made by the Ld. AO, appellant filed an appeal before the learned Commissioner of Income Tax [Ld. CIT(A) for short], appellant submitted details of all contract receipts and the names of contractors in a tabular form which gives clear picture of gross receipts of the appellant and TDS claimed by the appellant. Appellant thus filed all the details and reasons were mentioned for discrepancy between the amounts mentioned in 26AS and receipts admitted as per Profit and Loss Account filed by the appellant. Having satisfied with all the details submitted by the appellant, the Ld. CIT(A) adjudicated that TDS may be restricted to the corresponding receipts admitted by the appellant in the Profit and Loss Account in accordance with section 199 of the Income Tax Act (the Act for short). As the discrepancies were properly explained by the appellant, differential amount of Rs. 2,66,16,798/- added by the Ld. AO was deleted by the Ld. CIT(A), while passing appellate order.

3. After receiving the Ld. CIT(A)'s appellate order, the Revenue filed an appeal before Hon'ble ITAT, Mumbai with following grounds :-

1. "On the facts & in the circumstances of the case the Id.CIT (A) erred in deleting the addition of Rs.2,66,16,708/- by not appreciating the fact that form No. 26AS exclusively reflects the correct amounts of receipts credited and TDS deducted during the specified assessment year therein.
2. On the facts & in the circumstances of the case the Ld.CIT(A), erred in deleting the addition of Rs. 2,66,16,798/-by simply relying upon the contentions placed by the assessee during the appellate proceedings without carrying out any independent inquiry.

3. On the facts & in the circumstances of the case the Ld. CIT(A) erred in the in deleting the addition of Rs. 2,66,16,798/- without ascertaining the fact in which other assessment year such receipt ought to have been brought to tax.
 4. The order of the Ld. CIT(A) may be vacated & the matter be set aside to the file of the Assessing officer.
 5. The appellant craves leave to add amend alter or delete.”
4. During the proceedings on the day of hearing, Ld. DR has argued that the order of Ld. AO is correct because explanations given by the appellant are vague and without any documentary evidence. Ld. AR of the appellant has argued that all the details were submitted before Ld. AO as well as the Ld. CIT(A) and hence the order of the Ld. CIT(A) may be confirmed.
5. Heard both the parties. From the order of the Ld. CIT(A), it is seen that the appellant filed all the details before the First Appellate Authority and based on those details, the entire addition was deleted. The Ld. CIT(A) has accepted contentions of appellant without any verification on his own or by calling for a remand report from the Ld. AO. For example the Ld. CIT(A) has accepted contention of the appellant that Akruiti Jay Developers stopped him from doing further work and no money was paid to him. Similarly, from the project of DAV International School, 26AS statement has shown gross receipts of Rs. 3,37,37,328/- whereas the appellant admitted receipts of Rs. 1,48,10,554/- only. The appellant’s contention is that DAV International School has reduced the amount and finally settled bill at Rs. 1,48,10,554/- and certain amounts were offered in the subsequent years. Similar is the case relating to project of Jahnvis Multi Foundation and Navi Mumbai SEZ Pvt. Ltd. In all these projects, appellant has stated that he received part of the total gross receipts only and the same were offered to tax as reflected in the Profit and Loss Account filed by him while filing the Return of Income. It is not known whether explanation given by the appellant is correct or not. As

contended by Ld. DR, these explanations were not verified by the Ld. CIT(A) nor any report was called for from the Ld. AO.

In view of the above factual scenario, the matter is remitted back to the file of the Ld. CIT(A) to get all facts verified from the Ld. AO and pass appeal order afresh. The Ld. CIT(A) is directed to pass the appeal order accordingly.

6. Appeal of the Department is allowed for statistical purposes.

Order pronounced in the open court on 26th August, 2024.

Sd/-
(Satbeer Singh Godara)
Judicial Member

Sd/-
(Omkareshwar Chidara)
Accountant Member

Mumbai : 26.08.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

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