

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.1282/Bang/2024
Assessment year : 2016-17

Ryatar Sahakari Sakkare Karkhane Niyamit, 1, Rana Nagar, Timmapur, Bagalkot – 587 122. PAN : AAAAR 0428E	Vs.	The Income Tax Officer, Ward 1 & TPS, Vijaypura.
APPELLANT		RESPONDENT

Appellant by	:	Shri V. Mudrabetu, Advocate
Respondent by	:	Shri Parithivel, V., Jt. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	13.09.2024
Date of Pronouncement	:	24.09.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 08.05.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2016-17 on the following grounds:-

- “1. That the Assessing Officer is not justified in concluding the assessment u/s 147 r.w.s. 144 r.w.s. 144B unilaterally and without appreciating various written submissions given during the Income Tax proceedings and explanations given by the assessee.
2. That there is no justification to make addition of Rs. 54,52,400u/s 68 to the returned income. The buyers of sugar had made payment to the assessee society which was supported by the sale invoices,

bank account statement, gate pass, central excise invoice number and books of accounts duly audited u/s 44AB of the Income Tax Act, 1961 for the previous year ended 31.03.2016.

3. Section 68 of the Income Tax is not applicable for this business sale of sugar transaction as there is no unexplained money involved.
 4. The assessing officer has not brought any evidence to show that the amounts received from parties were returned back to them and sale invoices are only accommodation entries. In the absence of any material evidences on records, the assessing officer addition u/s 68 of Rs. 54,52,400 is unjustified and against the principles of natural justice.
 5. That the assessee is totally denying Income-Tax assessment for AY 2016-17 under the above facts of the case and grounds of appeal narrated.
 6. That there is no justification to demand huge tax of Rs. 31,22,129 for AY 2016-17 which is highly arbitrary in nature.
 7. That there is no justification to initiate Penalty Proceedings u/s 271(1)(c) for Asst. year in Appeal.
 8. That any other ground of appeal shall be urged at the time of appeal hearing with the prior permission of the Appellate Authority”.
2. Briefly stated the facts of the case are that the assessee filed return of income in the status of AOP on 28.09.2016 declaring NIL income after set off of brought forward loss. As per information available with the department, Shri Doshi Amrutlal Talakchand is involved in suspicious transactions and assessee is one of the beneficiaries involving amount of Rs.198,05,82,912. The AO after recording reasons and obtaining approval from the Competent Authority, issued notice u/s. 148 to the assessee on 29.06.2021 and other statutory notices were also issued. The assessee filed written

submissions and stated that it is engaged in manufacturing of sugar molasses and co-generation of power. It has not received the credit entry of Rs.198.06 crores from Shri Doshi Amrutlal Talakchand. It had made sugar sales of Rs.33,19,760 to Shri Doshi Amrutlal Talakchand and had generated sale invoices. The assessee has no information about the suspicious fund transfers of Shri Doshi Amrutlal Talakchand. The assessee furnished copy of Income Tax return along with computation of income, copy of bank account statement, copy of sales invoices, gate pass copy and central excise invoice number, copy of audit report and copy of financial statements. The assessee has furnished four sales invoices which were issued in the name of Doshi Amrutlal Talakchand amounting to Rs. 8,45,600/- dated 27.02.2016, Rs. 7,24,800/- dated 29.02.2016, Rs. 8,82,560/- dated 04.03.2016 and Rs. 8,66,800/- dated 08.03.2016. Regarding Sh. Doshi Amrutlal Talakchand, the assessee has furnished copy of his PAN card, TIN allotment letter, Maharashtra shop and establishment certificate, CST certificate and Maharashtra VAT certificate.

3. The AO noted from the submissions of the assessee that it has received amounts on 6 occasions of Rs.54,52,400. He issued notice u/s. 133(6) to Rajkumar Amrutlal Doshi on 26.02.2023 requiring him to furnish details of the transactions made with the assessee during the year under consideration. In response, Shri Rajkumar Amrutlal Doshi filed written reply on 28.02.2023 and submitted that he had made payment of Rs.54,52,400 to the assessee and further he had asked the assessee to prepare the bill in the name of third party and there is no

sales/purchase transaction from the assessee in his books of account. The AO issued show cause notice proposing to make addition of Rs.54,52,400 as undisclosed income u/s. 68 of the Act. There was no reply from the assessee till 27.03.2023 to the show cause notice, accordingly the AO considered Rs.54,52,400 as from undisclosed sources and added u/s. 68 r.w.s. 115BBE of the Act. Aggrieved from the above order, the assessee filed appeal before the First Appellate Authority (FAA). The Id. FAA confirmed the order of the AO. Aggrieved, the assessee is in appeal before the ITAT.

4. The Id. AR reiterated the submissions made before the lower authorities and submitted that the assessee sells goods to Rajkumar Amrutlal Doshi against which the assessee has received payment and the entire details regarding sales invoices, gate pass copy and central excise invoice number, copy of audit report and copy of financial statements were produced during the assessment proceedings. However, the AO has made the addition only on the basis of letter received from Rajkumar Amrutlal Doshi. There was no cross-examination provided to the assessee. As per the assessee, there is transaction of Rs.33,19,760 only during the year under consideration and the difference amount relates to the other years. Hence the AO has wrongly treated it as income u/s. 68.

5. The Id. DR relied on the order of the lower authorities and submitted that the department had definite information that Rajkumar Amrutlal Doshi is involved in suspicious transactions and there is also

difference noted in the statements made by the assessee. Shri Rajkumar Amrutlal Doshi has responded to the notice of the AO and stated that he has asked assessee to prepare bills in the name of others which clearly shows that there was no sales transactions directly. Therefore there is no justification for treating the amount as sales because there is no supply of goods to Shri Rajkumar Amrutlal Doshi. The Id. DR submitted that the AO has made addition u/s. 68, however while examining the issue u/s. 68, the creditworthiness of Shri Rajkumar Amrutlal Doshi has not been examined by the AO.

6. Considering the submissions from both the sides, perusing the material on record and the order of the lower authorities, we note that there is difference between the amount noted by the assessee and submissions made by the assessee made with Shri Rajkumar Amrutlal Doshi. As per the assessee there is transaction of Rs.33,19,760 during the year. However the AO has made addition u/s. 68 of Rs.54,52,400 which is also confirmed by Shri Rajkumar Amrutlal Doshi and he has stated that the bills shall be prepared in the name of others. But there is no clear information that how the transactions have been recorded by the assessee. The assessee has produced sales invoices, gate pass copy and central excise invoice number, copy of audit report and copy of financial statements. Shri Rajkumar Amrutlal Doshi has denied any purchase and sale transaction with the assessee. During the course of arguments, the Id. AR submitted that there is no cross-examination provided to the assessee before making the addition, but the assessee could not prove that during the course of reassessment proceedings any

request was made with the AO for cross-examination, therefore the arguments made by the Id. AR on the cross-examination is rejected. Considering the entire facts of the case, we remit this issue back to the AO for de novo reassessment as per law. The assessee is directed to file necessary documents that would be essential and required for substantiating its case and for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings for early disposal.

7. In the result, the appeal by the assessee is partly allowed for statistical purposes.

Pronounced in the open court on this 24th day of September, 2024.

Sd/-

(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 24th September, 2024.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.