

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

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No.583/JPR/2023
निर्धारण वर्ष / Assessment Year : 2020-21

| | | |
|---------------------------------------------------|-------------|------------------------------------------------------------------------------------------------------|
| The DCIT. Circle-6, Jaipur. | बनाम Vs. | The Rajasthan Small Industries Corporation Ltd. Udyog Bhawan, Tilak Marg, C-scheme, Jaipur. |
| स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAACR6761L | | |
| अपीलार्थी / Appellant | | प्रत्यर्थी / Respondent |

निर्धारिती की ओरसे / Assesseeby :None
राजस्व की ओरसे / Revenue by: Smt. Alka Gautam (CIT-DR)

सुनवाई की तारीख / Date of Hearing : 26/09/2024
उदघोषणा की तारीख / Date of Pronouncement: 27/09/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

The present appeal is filed by the revenue and is arising out of the order of the Ld. CIT(A), National Faceless Appeal Centre, Delhi [here in after "CIT(A)/NFAC"] dated 20.07.2023 for assessment year 2020-21.

2. The brief facts of the case is that in this case an intimation u/s 143(1) of the Act was issued wherein an addition of Rs. 53,01,37,219/- was added u/s 37 of the Act, vide intimation order dated 23.12.2021.

3. Against that intimation order the assessee preferred an appeal before the Id. CIT(A) who has allowed the appeal of the assessee vide order dated 20.07.2023 by observing as under:-

“ 4. Observation, Findings and Decisions

4.1 The order of the CPC passed u/s 143(1) dated 23.12.2021 as well as grounds of the appeal, statement of facts and written submission filed by the appellant has been carefully considered. In essence, all the substantial grounds taken by the appellant relate to the action of the CPC regarding addition of Rs.53,01.37.219/-on account of Contingent Liabilities. During the course of appellate proceedings, the appellant has filed written submission relying upon the decision of the Hon'ble ITAT. New Delhi which has been respectfully considered. In the submission, it has been stated that the Contingent Liabilities which were disallowed was never been a part of P & L account or Balance Sheet of the appellant so should not be disallowed as the contingent liabilities not impacted the Profit figures of the assessee and these contingent liabilities of Rs. 53,01,37,219/- was only shown in the notes forming part of the accounts as disclosures. The Hon'ble ITAT, Delhi Bench 'B', New Delhi in the case of DCIT, Circle-10(1), New Delhi vs. Dwarikadhish Spinners Ltd. (ITA No 4782 & 4783/Del/2012 dated 06.12.2013) referred by the appellant observed as under.”

We find that Ld. CIT(A) has given a finding that the impugned amount was not shown as liability in the books of accounts of the assessee. No such amount liability has been debited by the assessee in its profit and loss account. In such situation there is no question of any disallowance in this regard. The contingent liability has been mentioned in the notes of accounts which is required only for disclosure purposes.

On verification of ITR for the subject assessment year, it is found that the amount of Rs. 53,01,37,219/- neither has been debited in the Profit & Loss A/c nor is appearing in the Balance Sheet of the appellant.

42 In the light of the above and respectfully following the decision of the Hon'ble ITAT, Delhi Bench 'B', New Delhi in the case of DCIT, Circle-10(1), New Delhi vs. Dwarikadhish Spinners Ltd. as referred by the appellant, all the substantial grounds taken by the appellant are allowed.

5. In the final result, appeal filed by the appellant is treated as allowed.”

4. Aggrieved from the above findings of the Ld. CIT(A), the Revenue has preferred has preferred the present appeal beforeus challenging the order of the Ld. CIT(A) on the following ground:-

“1. Whether in the facts and circumstances and in law, the Ld. CIT(A) has erred in deleting the addition made by the AO CPC on account of contingent liability amounting to Rs. 53,01,37,219/- while the same is not allowed u/s 37 of the Income Tax Act, 1961.

2. The appellant craves leave to add, alter, amend, withdraw or insert any ground or grounds of appeal before or at the time of hearing of the appeal.”

5. Against filing of this appeal, notices were issued to the assessee on various occasions in as much as 13 occasions matter were listed for hearing. In this matter Learned counsel appearing on behalf of the assessee in the Month of February,2024 sought adjournment and thereafter nobody turned up in the present appeal.

Today the matter was listed for arguments and the Id. DR was ready with the arguments and we proceeded to hear the appeal of the revenue with the presence of the assessee. Ld. DR appearing on behalf of the revenue submitted that the additions have been considering the return of

income filed by the assessee, the assessee has not demonstrated before the Bench and even in the proceedings before the Ld. CIT(A) that whether the addition is infact is required to be made or not. The Ld. DR further submitted that while allowing the appeal of the assessee being substantial amount of addition Id. CIT(A) has not given equal opportunity to the Id. AO by seeking the remand report on the factual aspect of the matter. Based on that aspect of the matter Ld. DR submitted that in the interest of justice matter be remand back to the file of the Id. Assessing Officer.

6. We have heard the Ld. DR and perused the material available on record. On perusal of the order of Id. CIT(A), Bench noted that though the intimation was processed based on the ITR filed by the assessee and the addition was made based on the computerized processing done by the Centralized processing center and therefore, the addition was done based on the data submitted by the assessee. The addition was made by computerized programme as appearing at page 13 column no. 50 of the intimation having page 51. The adjustment was made under the head “amount debited to the profit and loss account” to the extent disallowable u/s 37 of the Act. Since, while relying the submission of the assessee there is violation of principles of natural justice so far as the contention of the

Revenue is concerned. Thus, here the assessee has not substantiated that aspect of the matter in spite of various opportunity granted to the assessee, the assessee did not represent the facts of the case before us. Therefore, considering that peculiar aspect of the matter we remand the matter back to the file of the Assessing Officer who will decide the issue as to the fact that whether the assessee debited that amount under dispute in the profit and loss account or not and AO will decide the issue based on evidence and submission of the assessee. However, the assessee will not seek any adjournment on frivolous ground and remain cooperative during proceedings before the Id. AO.

In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 27/09/2024.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 27/09/2024

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- DCIT, Circle-6, Jaipur.
2. प्रत्यर्था / The Respondent- The Rajasthan Small Industries Corporation, Jaipur.

Sd/-

(राठौड़ कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

3. आयकरआयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File ITA No. 583/JPR/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar