

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH 'SMC' CHANDIGARH

BEFORE: SHRI A. D. JAIN, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 114/CHD/2024

निर्धारण वर्ष / Assessment Year : 2016-17

Balaji Timber And Plywood Co Rajiv Goel And Associates, 179, Bank Road, Ambala Cantt. 133001 Punjab	बनाम VS	ACIT, Circle-1(1), Chandigarh
स्थायी लेखा सं./PAN /TAN No: AAGFB 6597B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri. Dhruv Goel, C. A.

राजस्व की ओर से/ Revenue by : Sh. Ved Parkash Kalia, JCIT, Sr. DR

तारीख/Date of Hearing : 13.08.2024

उद्घोषणा की तारीख/Date of Pronouncement : 22.10.2024

PHYSICAL HEARING

आदेश/ORDER

PER KRINWANT SAHAY, ACCOUNTANT MEMBER:

The appeal in this case has been filed by the assessee against the order dated 11.12.2023 passed by the Id. Addl./JCIT(A)-5, Kolkata. The grounds of appeal are as under:

“1. That the ld. JCIT(A)-5, Kolkata has erred in law and facts in confirming the disallowance of rent expenses of Rs.12,95,400/- made by the AO.

2. That the ld. JCIT(A)-5, Kolkata has erred in law and on facts in confirming the additions of Rs.12,95,400/- without adherence to principles of natural justice.

3. That the appellant craves leave to add, alter, amend or to substitute the above grounds of appeal either before or at the time of hearing of case.”

2. Brief facts of the case as per the order of the Addl. CIT(A) is that the assessee is a firm deriving the income from business of retail and wholesale trade of timber. The assessee company filed its return of income for Assessment Year: 2016-17 on 12.09.2016, the case was selected for scrutiny notice for the same was issued and it was duly served upon the assessee. The Assessing Officer passed the order u/s 143(3) on 08.12.2018 making an addition of Rs.15,95,400/- on account of disallowance of rent expenses paid by the assessee as rent of payment as different godowns. The ld. Addl. CIT(A) has given his findings on this issue in the appeal order as under:

“The fact of this ground is AO had disallowed the rent expenses on account of the fact that the appellant had failed to provide supporting documents such as rent agreement proof of ownership of property and deals of TDS deducted.

The appellant has based his argument on that the business that appellant engaged to needs rented godowns, rent

expense regularly incurred over the years, and Form 16A issued.

These arguments put forth by appellant are not correct an expense regularly booked does not accord itself genuineness. The business that appellant engaged in may not need rented godowns. The form 16A issued does not automatically give genuineness to a transaction,

The appellant needs to submit the documentary evidence of detail rent agreement, the ownership of premises taken on rent and the factual evidence that premises are actually used for keeping goods. Further, AO has never mentioned about survey or its findings in the body of assessment order, as appellant claimed.”

3. During proceedings before us, the ld. counsel of the assessee has filed all relevant documents regarding payment of rent for godowns at different places along with the paper books regarding ownership of such premises by the owners of such godowns. The ld. counsel also argued that in the trade of manufacturing of timber and it's timber and plywood requires much storage spaces for storing cut plywood and for that purpose the assessee needs godowns as well as counters. It was also brought on record by the counsel of the assessee that the rental expenses relating to majority of such godowns and outlets were fully allowed in earlier years. The assessee has also brought on record that such expenses incurred by the assessee have been fully allowed in subsequent years also. Counsel of the assessee has pointed

out that it is only in the year of consideration that such rent payments have been disallowed despite the fact that they were never disallowed in earlier years nor have been disallowed in the subsequent years.

4. The ld. DR relied mostly on the findings given by the AO and the ld. Addl. CIT(A).

5. We have considered the findings given by the AO in the assessment order as well as the ld. Addl. CIT(A) in his appeal. We have also considered the arguments and documents related to rental payments for godowns filed by the counsel of the assessee (which were filed before authorities below also) and we have also considered the arguments made by the ld. DR during the proceedings before us.

6. We find that there is no denying the facts that the assessee requires godowns for storing plywood and timber and the assessee also requires show-rooms in order to sale them. It is seen from the record that the rental payment of such godowns and show-rooms have been accepted by the department in earlier years and the same rental payments have been accepted by the department in subsequent years

also. The facts mentioned by the AO as well as by the Id. Addl. CIT(A) in the year under consideration are not different from the facts of the same trade and in assessee's own case in earlier as well as subsequent years. Therefore, we don't find any reasons to disallow of such rental payments in one particular year when both the AO as well as the Id. Addl. CIT(A) have accepted that the business of the assessee in the year under consideration was running as usual as in earlier years. So, the use of godowns and show-rooms by the assessee cannot be denied in the year under consideration also. Once, it is accepted of this payment of rent for such godowns and show-rooms, in earlier and subsequent years, it cannot be denied to the assessee in just one year. Accordingly, the assessee's appeal on this ground is allowed.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced as on 22.10.2024.

Sd/-
(A. D. JAIN)
VICE PRESIDENT

Sd/-
(KRINWANT SAHAY)
ACCOUNTANT MEMBER

“GP-Sr. PS”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent

3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाइल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar