

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : BANGALORE**

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

<b>ITA No. 1358/Bang/2024</b>
<b>Assessment Year : 2018-19</b>

M/s. Shilpa Siri, No. 5, Shilpa Shine, 6 <sup>th</sup> A Main, 27 <sup>th</sup> Cross, 3 <sup>rd</sup> Block, Jayanagar, Bangalore – 560 011. <b>PAN: ACNFS5485J</b>	<b>Vs.</b>	The Deputy Commissioner of Income Tax, Circle -7(1)(1), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri R. Chandrashekar, Advocate
Revenue by	:	Ms. Neha Sahay, JCIT-DR

Date of Hearing	:	03-10-2024
Date of Pronouncement	:	11-11-2024

**ORDER**

**PER LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi vide DIN & Order No: ITBA/NFAC/S/250/2024-25/1065129322(1) dated 25/05/2024 for A.Y. 2018-19 on following grounds of appeal:

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal (see note below)</i>
1.	<i>The Learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.52,18,375/- in respect of labour work completed by Mrs. Nethra Reddy, who is assessed to tax.</i>	18,05,558/-
2.	<i>The Learned Commissioner of Income Tax (Appeals) did not consider that the appellant has provided the address, PAN number, Telephone number of the Party before by the Learned Assessing Authority on 07-09-2021 in the course of assessment proceedings.</i>	
3.	<i>The addition has been made by the Learned Assessing Authority solely on the ground that the said party did not respond to the notice issued u/s.133(6) of the Act.</i>	
4.	<i>The addition has been confirmed by the Learned Commissioner of Income Tax (Appeals) solely on the ground that the appellant did not furnish confirmation from Nethra Reddy. The Appellant has deducted tax at source and quarterly returns under the TDS provisions are also filed.</i>	
5.	<i>The Learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.27,00,000/- in respect of labour work completed by Mr.OMPRAKASH, who is assessed to tax.</i>	9,34,200/-
6.	<i>The Learned Commissioner of Income Tax (Appeals) did not consider that the appellant has provided the PAN number, Telephone number of the Party before by the Learned Assessing Authority on 07-09-2021 in the course of assessment proceedings.</i>	

7.	<i>The addition has been made by the Learned Assessing Authority solely on the ground that the said party did not respond to the notice issued u/s.133(6) of the Act.</i>	
8.	<i>The addition has been confirmed by the Learned Commissioner of Income Tax (Appeals) solely on the ground that the appellant did not furnish confirmation letter.</i>	
9.	<i>The Learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.8,98,623/- in respect of labour work completed by Mr. SABANNA who is assessed to tax and appellant in letter dated 07-09-2021. Provided PAN and telephone number.</i>	3,10,924/-
10.	<i>The addition has been made by the Learned Assessing Authority solely on the ground that the said party did not respond to the notice issued u/s.133(6) of the Act.</i>	
11.	<i>The addition has been confirmed by the Learned Commissioner of Income Tax (Appeals) solely on the ground that the appellant did not furnish confirmation.</i>	
12.	<i>The Learned Commissioner of Income Tax (Appeals) erred in confirming the Interest levied u/s 234B of the Act.</i>	5,67,427/-
13.	<i>The appellant prays that this Hon'ble Tribunal be pleased to permit the appellant to add, delete or modify any ground or grounds at the time of hearing.</i>	
<i>Total tax effect (see note below)</i>		36,18,109/-

**2.** Briefly stated the facts of the case are that the assessee filed its return of income on 29.10.2018 declaring total income of Rs. 13,29,090/-. The return was processed and the case was selected for scrutiny under CASS and statutory notices were served to the assessee. The assessee submitted reply on different dates. The assessing officer noted that in the case of

following four persons, the assessee could not file requisite details which are as under:

<i>Name of the person</i>	<i>PAN</i>	<i>Amount paid</i>	<i>Nature of expense</i>
<i>Nethra Reddy</i>	<i>AKOPR0971K</i>	<i>5218375</i>	<i>Carpentory Charges</i>
<i>Omprakash</i>	<i>AALPO5241L</i>	<i>2700000</i>	<i>Carpentory Chares</i>
<i>Sabanna</i>	<i>CRKPS7838H</i>	<i>898623</i>	<i>Earth Excavation</i>
<i>Sabir Hussain Laskar</i>	<i>BTAPS3088L</i>	<i>748880</i>	<i>Fabrication charges</i>

**3.** The assessing officer also issued notices u/s. 133(6) and there was non-compliance from the part of the assessee side also. Therefore the assessee filed copy of ledger account. The AO noted that the filing of the ledger account is not sufficient and assessing officer also pointed out some discrepancies, considering the totality of the facts the assessing officer rejected the books of accounts and invoking provisions of section 145(3) of the act and computed the total income of Rs. 2,54,96,294/- and a draft order was prepared. The draft order was sent to the assessee. The assessee objected for making addition and he filed the details of PAN, mobile no. and address and nature of work done by Nethra Reddy, Sabanna, Omprakash and Sabir Hussain Laskar and copy of confirmation were also filed in respect of Sabir Hussain Laskar. The assessee also submitted that the TDS was deducted on such payments made to the above parties. The assessing officer was not satisfied and accordingly, he confirmed the addition of Rs.2,54,96,294/- as per the draft order.

**4.** Aggrieved from the above order, the assessee filed appeal before the Ld.CTI(A).

**5.** The Ld.CIT(A) after considering the detailed submissions, he restored the books of accounts which was rejected by the assessing officer. However, the findings regarding payment made to the above 4 parties, the Ld.CIT(A) deleted the addition of Sabir Hussain Laskar and confirmed the addition made in respect of Nethra Reddy, Omprakash and Sabanna totalling to

Rs.88,16,998/-. The Ld.CIT(A) observed that the assessee could not file the requisite documents in respect of these following three sub-contractors. The Ld.CIT(A) observed that the assessee could not prove the genuineness with any supporting with regard to expenditure incurred in respect of Nethra Reddy, Om Prakash and Sabir Hussain Laskar and confirmed to the extent of addition of Rs.88,16,998/-.

**6.** Aggrieved from the above order, the assessee filed appeal before the ITAT.

**7.** The Ld.AR of the assessee reiterated the submissions made before the lower authorities and further submitted that the Ld.CIT(A) has wrongly confirmed, the sub-contractors payment in respect of three creditors as noted above for payment of Rs. 88,16,998/-.

**8.** Once the books of accounts are rejected by the assessing officer, applying the provisions of section 145(3) which is restored by the Ld.CIT(A) after considering the entire submissions of assessee, there is no further addition could be made by the assessing officer since in the assessment order, the assessing officer has made addition only towards the rejection of books of accounts of the assessee and made estimated addition on Gross Profit. On the very basis, the Ld.CIT(A) had accepted the same

**9.** He further submitted that the assessee has discharged the liability cast upon the assessee for providing name, address, mobile no., PAN and providing copy of ledger account and deducted TDS and the entire payments were made through the banking channel. Therefore there is no further liability cast upon the assessee and the addition made by the Ld.CIT(A) should be deleted. In support of his argument relied on judgment of Coordinate Bench of the Tribunal in ITAT Mumbai 'G' Bench in ITA No. 3860/Mum/2019 for A.Y. 2015-16, order dated 02/12/2022 and the assessing officer issued notice u/s. 133(6) which had not been responded by the sub-contractors is not the responsibility of the assessee and they were

not in control of the assessee. Once the assessee has provided the details as sought by the Ld.AO, the addition could not be warranted.

**10.** The Ld.DR relied on the order of the lower authorities in respect of the additions confirmed by the Ld.CIT(A) and the contention raised by the Ld.AR of the assessee is not correct. He categorically submitted that the assessing officer before rejecting the books of accounts in respect of these three creditors, the assessing officer has given finding and observed that they have not responded the notices issued by the assessing officer u/s. 133(6) and the complete details were also not provided by the assessee. Therefore there is no base for the argument of the assessee. The Ld.DR referred to the order of the assessment and submitted that the above three creditors, the assessee could not comply the requirement of the assessing officer. It is clear from the show cause notice issued to the assessee at para 4.2.1. The assessee could have furnished the bills/invoices raised by the sub-contractors and where the sub-contractors have worked. The assessee has not furnished any agreements for works done by the sub-contractors. The copy of the return of income, computation of income and profit & loss account for the concerned year of the above three creditors were also not provided at any stage of the proceedings. Accordingly, the assessee was unable to prove the genuineness of the expenses incurred, merely providing copy of ledger account, deduction of TDS and payment made through banking channel is not sufficient to prove the genuineness of the explanation. Accordingly, she requested that the order of the Ld.CIT(A) should be confirmed.

**11.** Considering the rival submissions, we noted that during the course of assessment proceedings, the assessee could not comply the requirements of the assessing officer as asked for and the AO noted some deficiency and therefore he invoked the provision of section 145(3) and rejected the books of accounts of the assessee. The assessing officer has also categorically given observation in respect of three sub-contractors noted (supra) in detail and rejected the books of accounts of the assessee and estimated the

business profits to which the Ld.CIT(A) has restored the books of accounts of the assessee but the observation of the assessing officer in respect of these three sub-contractors have been confirmed observing that the assessee could not prove the genuineness of the expenses in respect of these three sub-contractors paid towards carpentry charges, Earth excavation and fabrication charges. We do not find any substance in the arguments of the Ld.Counsel that once the books of accounts are rejected by the assessing officer and restored by the Ld.CIT(A), no further addition could be made in respect of the trade creditors by the Ld.CIT(A). Since in the case of on hand during the course of entire assessment proceedings, the assessee could not comply the entire requirements of the assessing officer in respect of the above three creditors as sought by the assessing officer, it is clear from para 4.2.1 that the assessing officer asked to the assessee to file the following details:

1. *Nature of transaction.*
2. *Please furnish ledger account and copy of bills/invoices raised.*
3. *Please furnish address of the site where the work was executed.*
4. *Please furnish name, address of the persons (labour) employed for above work.*
5. *Please furnish copy of acknowledgement of ROI, computation of income and P&L account for the year.*
6. *Please furnish copy of relevant part of bank statement highlighting the transaction with the assessee."*

**12.** During the course of assessment proceedings, the assessee only furnished copy of ledger account, name of works done, name and address, PAN and mobile no. but other details as sought by the AO as per the above noted points could not be furnished. Therefore, the assessing officer rejected the books of accounts after considering the various aspects which is clear from the assessment orders. Therefore we reject the first argument of the assessee on this issue and the CIT(A) has rightly decided the appeal on this point.

**13.** Now coming to the rest issue raised by the Ld.Counsel in respect of three sub-contractors, we observe that during the appellate proceedings, the assessee was also unable to prove the genuineness of the expenses incurred.

We also note that the assessee has furnished name and address, nature of works done, PAN and mobile no. of Nethra Reddy and Sabanna.

**14.** We observe that the assessee has filed the above details only but could not furnish the complete details as sought by the assessing officer as noted above. Therefore we hold that merely filing of name, address, PAN and mobile no., copy of ledger account, TDS certificate is not sufficient to prove the genuineness of the expenses. The assessee has not satisfied with the complete details as required by the assessing officer. The Ld.AR of the assessee has relied on the judgment of the Coordinate Bench of this Tribunal noted (supra) in case of Sonicwall Technology System India Pvt. Ltd. vs. ACIT in ITA No. 3860/Mum/2019 by order dated 02/12/2022 will not support the case of the assessee on hand because the assessee has not complied the entire requirement as observed by the assessing officer noted (supra) out of S.Nos. 1 to 6 as per the above noted para. Accordingly we hold that the addition confirmed by the Ld.CIT(A) is correct. These grounds are rejected.

**15.** Ground no. 12 raised by the assessee is consequential in nature.

In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 11<sup>th</sup> November, 2024.

Sd/-  
(KESHAV DUBEY)  
Judicial Member

Sd/-  
(LAXMI PRASAD SAHU)  
Accountant Member

Bangalore,  
Dated, the 11<sup>th</sup> November, 2024.  
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,  
ITAT, Bangalore