

आयकर अपीलीय अधिकरण
दिल्ली पीठ "बी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस रिफौर रहमान, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER

आअसं.3102/दिल्ली/2024 (नि.व. 2021-22)
ITA No.3102/DEL/2024 (A.Y.2021-22)

Everest Blower Systems Pvt. Ltd.,
1st Floor, B-44, Mayapuri Industrial Area,
Phase-I, Delhi 110064
PAN: AAPCS-0860-A

..... अपीलार्थी/Appellant

बनाम Vs.

Deputy Commissioner of Income Tax,
Circle 7(1), New Delhi 110001

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Shailesh Gupta, Chartered Accountant
प्रतिवादीद्वारा/ Respondent by : Shri Vivek Kumar Upadhyay, Sr. DR
सुनवाई की तिथि/ Date of hearing : 18/11/2024
घोषणा की तिथि/ Date of pronouncement: : 19/11/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)/Additional/Joint Commissioner of Income Tax (Appeals)-10, Mumbai (hereinafter referred to as 'the CIT(A)') dated 30.04.2024, for assessment year 2021-22.

2. The solitary issue in appeal is against disallowance of expenses u/s. 37 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') being the contingent

liability of Rs. 3,07,75,963/- comprising of, Guaranty Rs.1,37,16,613/- and Capital Commitments Rs.1,70,59,350/-.

3. Shri Shailesh Gupta, appearing on behalf of the assessee submitted that the Centralized Processing Centre(CPC)/has erred in disallowing expenditure on account of contingent liability u/s. 37 of the Act, whereas the assessee has never claimed the contingent liability as expenditure in its books of accounts. He referred to Profit and Loss Statement for the year ended 31st March 2021 at page 33 of the paper book to support his contentions. He submitted that against the intimation u/s. 143(1) of the Act, the assessee filed appeal before the CIT(A). The CIT(A) without examining the records dismissed appeal of the assessee.

4. The Id. DR vehemently supported the impugned order. He stated that disallowance has been made on the basis of Tax Audit Report. However, the Id. DR sought time to verify from the records as to whether; the assessee has debited expenditure of contingent liability in P&L Account. The time sought by the Id. DR was allowed. The DR after verifying the records made a statement that as per the P&L Account for the year ended 31.03.2019 placed in the paper book, the assessee has not claimed contingent liability as expenditure.

5. Both sides heard. The short issue in appeal is with regard to disallowance of contingent liability u/s. 37 of the Act. The contention of assessee is that the assessee has not claimed contingent liability in the nature of Guaranty Rs.1,37,16,613/- and Capital Commitments Rs.1,70,59,350/- in the P&L Account. A perusal of Profit and Loss Account for the year ended 31st March 2021 relevant to the assessment year 2021-22 shows that such expenditure has not been debited by

the assessee. This fact has been verified by Id. DR. Once the expenditure has not been claimed by the assessee in the P&L Account, there is no question of disallowance of the same.

6. We find merit in appeal by the assessee, hence, the same is allowed.

Order pronounced in the open court on Tuesday the 19th day of November, 2024.

Sd/-

(S RIFAUR RAHMAN)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 19/11/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI