

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

**SHRI RAJPAL YADAV, VICE PRESIDENT
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 1015/Kol/2024
Assessment Year: 2019-20**

Arunachalammal Esakkithevar Sundaram,

Sunder Builders, Buniyadabad,
Haddo, PO, Port Blair,
South Andaman - 744102
[PAN: AWQPS9134B]

.....**Appellant**

vs.

DCIT, Circle 3(2), Port Blair,

Aayakar Bhawan, MB-210,
Shadipur, Port Blair – 744102

..... **Respondent**

Appearances by:

Assessee represented by : Akkal Dudhwewala, AR
Department represented by : Abhijit Kundu, CIT DR

Date of concluding the hearing : 15.10.2024

Date of pronouncing the order : 18.11.2024

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Appeals), Addl/JCIT(A), Mysore [hereinafter referred to as "the Ld. CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2017-18 dated 08.03.2024, which has been passed against the Assessment Order u/s 143(3) of the Act, dated 26.12.2019.

1. In this case, the appellant is seen to be a Government Contractor who filed his return of income on 05.11.2017. Through assessment order dated 26.12.2019, the Ld. AO made additions on account of unverifiable expenses (Rs. 21,53,776/-), u/s 40(a)(ia) of the Act, (Rs. 2,05,000/-) and

other items. Aggrieved with the additions, the appellant approached the Ld. CIT(A), where he got partial relief.

1.1 Before us, the appellant has come seeking relief on two substantiative items of additions as per the following grounds of appeal:

“1. For that on the facts and in the circumstances of the case, the Ld. CIT(A) was grossly unjustified in law and on facts in dismissing the appeal ex-parte.

2. For that on the facts and circumstances of the case, the lower authorities had erred in making estimated disallowance out of construction expenses to the extent of Rs.21,53,776/- and the same deserves to be deleted and/or reduced.

3. For that on the facts and circumstances of the case, the lower authorities grossly erred in disallowing Rs. 61,500/- u/s 40(a)(ia) of the Act on account of alleged non-deduction of TDS on payment of Rs.2,05,000/- to accountant, without appreciating that the impugned payment was not amenable to withholding tax provisions.

4. For that the appellant craves leave to submit additional grounds and/or amend or alter the grounds already taken either at the time of hearing of the appeal or before.”

2. During the course of arguments, the Ld. AR fairly decided not to press ground of appeal number 3, pertaining of disallowance u/s 40(a)(ia) of the act amounting to Rs. 2,05,000/-. Accordingly, this ground is dismissed, as not pressed.

2.1 Regarding the addition of Rs. 21,53,776/-, it was averred by the Ld. AR that in the line of business of the appellant, it was not always possible to have fool proof vouchers for each and every item of expense. Accordingly, the disallowance made by the Ld. AO was stated to be excessive and unjustified.

2.2 The Ld. DR relied on the findings of the authorities below.

3. We have carefully considered the arguments and perused the orders of the Ld. AO/Ld. CIT(A). Considering the totality of facts and circumstances of this case, it is felt that though there is some merit in the action of the Ld. AO, but he has erred on the side of excess in making the impugned disallowance. Accordingly, it is felt that the ends of justice would be served if the disallowance is restricted to 50% of the amount

added, with consequential relief to the appellant. The Ld. AO is directed accordingly.

4. In light of discussion above, this appeal is partly allowed.

Order pronounced in the open court on 18.11.2024

Sd/-
[Rajpal Yadav]
Vice President

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 18.11.2024.

AK, PS

Copy of the order forwarded to:

1. Arunachalammal Esakkithevar Sundaram,
2. DCIT, Circle 3(2), Port Blair
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches