

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.1018/Ahd/2024
Assessment Year: 2021-22**

Chirag Jhirwal, Deputy Commissioner of Income Tax, Circle – 3(1)(1), Ahmedabad.	Vs.	Scorpio Enterprise, 5201, GIDC Estate, Phase-IV, Vatva, Ahmedabad – 382 445. [PAN – ABJFS 9461 K]
(Appellant)		(Respondent)
Assessee by	Shri Jyotish M. Shah, CA	
Revenue by	Smt. Mamta Singh, Sr. DR	
Date of Hearing	21.11.2024	
Date of Pronouncement	18.12.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal is filed by the Revenue against order dated 12.03.2024 passed by the Addl. Joint CIT(A)-11, Mumbai for the Assessment Year 2021-22.

2. The Revenue has raised the following ground of appeal :-

“1. *The Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.3,27,77,267/- made by the ADIT-CPC Bangalore on the basis of GST refund amount reported in Clause 16(b) of Form 3CD and not to be considered as income.*”

3. The assessee firm filed its return of income declaring total income of Rs.12,77,20,060/-. The ADIT CPC, Bengaluru i.e, the Assessing Officer passed order under Section 143(1) of the Income Tax Act, 1961 dated 12.12.2022 making total additions of Rs.3,27,77,267/-.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) allowed the appeal of the assessee.

5. The Ld. DR submitted that the CIT(A) erred in law in deleting the addition on the basis of GST refund amount reported in Clause 16(b) of Form 3CD and has not considered the income. The Ld. DR submitted that the Assessing Officer has rightly made the addition

6. The Ld. AR relied upon the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the findings given by the CIT(A) in paragraph no.5.2.4 that mere reporting under Clause 16(b) should not automatically lead to a conclusion that the amount of Rs.3,27,77,267/- is taxable in the hands of the assessee. This finding is justifiable and Clause 16(b) of TAR merely requires the Tax Auditor to inter-alia report refund of GST, where such refunds are not credited to the Profit & Loss Account and are admitted as due by the authorities concerned. Clause 16(a) of TAR requires Tax Auditor to report items falling within the scope of Section 28 if the same are not credited to the Profit & Loss account. This observation of the CIT(A) is in consonance with the method adopted by the assessee firm, i.e. Mercantile System of Accounting, and thus there is no need to interfere with the finding of the CIT(A). Thus, appeal of the Revenue is dismissed.

8. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on this 18th December, 2024.

Sd/-
(DR. BRR KUMAR)
Vice President

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 18th December, 2024

PBN/*

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

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*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*