

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.1116/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2020-21)

KCVR Infra Projects Private Limited Hyderabad [PAN : AAECK2457N]	Vs.	ACIT Central Circle-2(2) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri M.V.Prasad, AR	
राजस्व द्वारा / Revenue by:	Shri R.Kumaran, DR	
सुनवाई की तारीख / Date of hearing:	18/12/2024	
घोषणा की तारीख / Date of Pronouncement:	18/12/2024	

आदेश / ORDER

PER. MANJUNATHA G., A.M:

This appeal filed by the assessee is directed against the order dated 30.08.2024 of the learned Commissioner of Income Tax (Appeals) [Ld.CIT(A)]-12, Hyderabad, pertaining to A.Y.2020-21.

2. The brief facts of the case are that the assessee company is engaged in the business of execution of civil work contracts, filed the original return of income for the A.Y.2020-21 on 29.12.2020, admitting income of Rs.7,01,39,640/-. The return

of income filed by the assessee was processed u/s 143(1) of the Income tax Act, 1961 ("the Act") on 24.12.2021 and determined the total income at Rs.7,74,08,072/-. In this case, survey operation u/s 133A of the Act was conducted on 23.03.2022, along with group cases of M/s SRK Constructions Private Limited. Consequent to survey, the case has been reopened u/s 147 of the Act and notice u/s 148 of the Act was issued and served on the assessee on 28.02.2023. In response to the notice u/s 148, the assessee filed return of income on 07.03.2023, by declaring total income at Rs.7,01,39,640/-. The case was taken up for scrutiny and during the course of assessment proceedings, the Assessing Officer called upon the assessee to file relevant evidences, towards sub contract expenses paid to Shri P.Anjani Kumar of Rs.8,54,750/-. In response, the assessee submitted relevant details and claimed that sub contract expenses paid to Shri P.Anjani Kumar are genuine and also the assessee has deducted TDS u/s 194C of the Act. The Assessing Officer after considering relevant submissions of the assessee and also taking note of various details obtained from Shri P.Anjani Kumar, observed that the sub contract expenses paid to Shri P.Anjani Kumar for Rs.8,54,750/- is not genuine, which is not supported by relevant evidences, therefore, made addition of Rs.8,54,750/- to the total income of the assessee.

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A). Before the Ld.CIT(A), the assessee has filed written submission on the issue, which has been reproduced at para 5, page 5 of the appellate order. The Ld.CIT(A) decided the appeal filed by the assessee by rejecting

the adjournment petition filed by the assessee on the ground that the assessee has sought repetitive adjournments without any valid reason. The Ld.CIT(A) also upheld the additions made towards sub contract expenses made to Shri P.Anjani Kumar of Rs.8,54,750/- on the ground that the assessee has not provided relevant evidences in support of the grounds contested in the present appeal.

4. Aggrieved by the Ld.CIT(A) order, the assessee is now in appeal before the Tribunal.

5. The learned Counsel for the assessee, referring to para 6.1 and 6.2 of the Ld.CIT(A) order, submitted that it is a matter on record that the assessee has filed certain details in response to notice issued by the first appellate authority and also sought further time to file additional information. Further, when the case was posted for hearing on 05.08.2024, the assessee has filed a letter seeking 15 days time for filing the details called for by the Ld.CIT(A). The Ld.CIT(A) without appreciating any reasons, rejected the adjournment petition filed by the assessee and dismissed appeal on technical grounds for non prosecution by following the decision of Hon'ble Supreme Court in the case of CIT Vs. B.N.Bhattacharjee and Another (10 CTR 354). The learned Counsel for the assessee further submitted that although the Ld.CIT(A) discussed the issue on merits, but decided the issue against the assessee, without considering the written submissions filed by the assessee. Therefore, he submitted to give another opportunity of hearing to the assessee, the matter may be remanded back to the Ld.CIT(A).

6. The learned DR, on the other hand, supporting the order of the Ld.CIT(A), submitted that sufficient opportunity has been given to the assessee, which is evident from para 6.1 of the appellate order. The assessee has sought adjournment without any valid reason. Therefore, the Ld.CIT(A) rejected the adjournment petition filed by the assessee and decided the issue on merits based on the material available on record. Therefore, the order of the Ld.CIT(A) should be upheld.

7. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. We have also considered various reasons given by the Ld.CIT(A) to reject the adjournment petition moved by the assessee and the reasons given for upholding the additions made by the Assessing Officer towards sub-contract expenses. The Ld.CIT(A) rejected the adjournment petition filed by the assessee, without assigning any reasons and also applied the decision of Hon'ble Supreme Court in the case of CIT Vs. B.N.Bhattacharjee and Another (supra) and also the decision of Hon'ble MP High Court in Estate of Late Tukojirao Holkar Vs. CIT (223 ITR 480) (MP), ITAT, Delhi Benches in the case of CIT Vs. Multiplan (India) Pvt.Ltd (38 ITD 320) (Del.) and M/s Helios and Matheson Information Technology Ltd. Vs. ITO in ITA No.134/Mds/2011 dated 05.07.2011. But the fact remains that, the facts of the cases relied upon by the Ld.CIT(A) are not relevant in the present case, because, in those cases, the appellant not at all appeared before the authorities and filed details in support of their grounds of appeal. In the present case, the Ld.CIT(A) himself admitted the fact that the appellant has filed the details

and further, sought adjournment for filing further details in support of their contentions. Therefore, the Ld.CIT(A), having noticed the fact that the appellant has valid reason for seeking adjournment, in our considered view, the Ld.CIT(A) ought not to have rejected the petition filed by the assessee and upheld the additions made by the Assessing Officer towards sub contract expenses, without considering detailed written submissions filed by the assessee. Since the Ld.CIT(A) dismissed the appeal filed by the assessee for non-prosecution, in light of written submission filed by the assessee, in our considered view, the matter needs to go back to the file of the Ld.CIT(A) for reconsideration of the issue. Thus, we set aside the order of the Ld.CIT(A) and restore the issue back to the file of the Ld.CIT(A) for reconsideration. The Ld.CIT(A) is directed to reconsider the appeal filed by the assessee and decide the issue on merits after providing another opportunity of hearing to the assessee. The assessee is also directed to file relevant evidences as and when the case is posted for hearing, without seeking any adjournment. Further, the assessee is also directed to pay a nominal cost of Rs.2,000/- for showing lethargic approach before the first appellate authority and pay the cost as directed by the Bench to the State Legal Aid Authority, Hon'ble High Court of Telangana and furnish relevant evidences to the Registry.

8. In the result, appeal filed by the assessee is allowed for statistical purpose.

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

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-

(MANJUNATHA G.)
ACCOUNTANT MEMBER

Hyderabad,
Dated 18th December, 2024
L.Rama, SPS

Copy to:

S.No	Addresses
1	M/s KCVR Infra Projects Private Limited, R3 Icon, 4 th Floor, Sheikpet, Serlingampally, Hyderabad
2	The Asst.Commissioner of Income Tax, Central Circle-2(2), Hyderabad
3	The Pr.CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order