

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.508/RPR/2024
निर्धारण वर्ष / Assessment Year : 2018-19

Sagar Kukreja
Plot No.33-34, Baba Deep Singh Nagar,
Behind Sindhu Bhawan Bhilai,
Supela, Bhilai (C.G.)
PAN: ASMPK7043F

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,
Circle-1(1), Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Smt. Anubhaa Tah Goel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 13.01.2025

घोषणा की तारीख / Date of Pronouncement : 20.01.2025

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 03.05.2024, which in turn arises from the order passed by the A.O under Sec.147 r.w.s. 144B of the Income-tax Act, 1961 (in short 'the Act') dated 24.03.2023 for the assessment year 2018-19. The assessee has assailed the impugned order on the following grounds of appeal before us:

“Gr. No.1

“On the facts and circumstances of the case and in law, reopening u/s.148 dt.30-3-22 is invalid; it is on wrong facts/erroneous footings of bogus purchases of material' while it is sales of material to the party; there is no live-link/nexus between the incorrect information of bogus purchase of material & formation of reasons to believe for escaped income of Rs.69,01,873; in absence of pre-requisite condition for assuming jurisdiction u/s 147, reopening u/s 148 would be invalid; liable to be quashed; relied on Well Trans Logistic India P Ltd (2024) (Del HC); Lakhmani Mewaldas (1976) (SC); Meenakshi overseas (P) Ltd (2017) (Del HC); Mohanlal Champalal Jain (2019) (Bom HC); Shamshad Khan (2017) (Del HC); Mumtaz Haji Mohmad Memon (2018) (Guj).

Gr.No.2:

"On the facts and circumstances of the case and in law, Id CIT has erred in in sustaining addition of Rs.81,44,211 on the count of alleged bogus purchase, treating it as unexplained expenditure u/s.69C; while, it is sales of material made to the alleged party; recorded in in it the

books of account; books of account has not been rejected by the revenue & sec.145(3) not been applied; addition made u/s.69C is invalid in & unjustified on merits of the case; is liable to be deleted." the eyes of law

Gr.No.3:

"On the facts and circumstances of the case and in law, ld. CIT has erred in applying sec.115BBE for imposing higher rate of tax, is unjustified; is liable to be deleted."

Gr.No.4:

"The appellant craves leave, to add, urge, alter, modify or withdraw any grounds before or at the time of hearing."

2. Succinctly stated, the assessee had filed his return of income for A.Y.2018-19 on 24.05.2022, declaring an income of Rs.26,32,720/-. The A.O based on the information received on Insight portal of ITBA uploaded by DDIT/ADIT (Inv.)-5(1), Mumbai, viz. (i) that the assessee had during F.Y.2017-18 purchased goods from M/s.Moksh Alloys Pvt. Ltd., i.e. a concern which was engaged in both providing and taking benefit of fake Input Tax Credit; and (ii) that M/s.Moksh Alloys Pvt. Ltd. (supra) had during the subject year issued bogus ITC on fake sale bills for F.Y.2017-18 amounting to Rs.69,01,873/- to the assessee to claim fraudulent Input Tax Credit (ITC) and to dispose their output GST liability with the help of fake input credit as well as suppress their income by claiming fake/bogus purchases as their expenses, initiated proceedings u/s. 147 of the Act. Notice u/s. 148 of the Act was issued to the assessee.

3. Assessment was, thereafter, framed by the A.O vide his order passed u/s. 147 r.w.s. 144B of the Act wherein, after making an addition of Rs.81,44,211/- on account of unexplained expenditure u/s. 69C of the Act, the income of the assessee was determined at Rs.1,07,76,931/-.

4. Aggrieved, the assessee carried the matter in appeal before the CIT(Appeals). As the assessee despite having been afforded four opportunities, viz. vide notices issued on 27.02.2024, 05.04.2024, 17.04.2024 and 26.04.2024 had failed to participate in the proceedings before the first appellate authority, therefore, the latter after considering the grounds of appeal and statements of facts available on record dismissed the appeal. For the sake of clarity, the observations of the CIT(Appeals) are culled out as under:

“6. DECISION: I have gone through and duly considered the facts emanating from grounds of appeal and statement of facts and other facts of the case available on the record. From the documents available on record, it is found that the appellant didn't furnish satisfactory documentary evidence to explain its state of affairs during the assessment proceedings of A.Y. 2018-19.

During the appellate proceedings, the appellant has not complied properly to the notices issued nor filed any written submission. In absence of the written submission and evidence, it remained to be unexplained as to how the AO's order is erroneous. If the appellant claims that the assessment order was objectionable it should have provided supporting arguments of evidences. The appellate proceedings are first line of remedy to those who think that the injustice has been done by the AO. However, the appellant failed to avail the same by non-complying. I am of the view that the government cannot waste its own resources in time and money by providing endless opportunities to pursue taxpayers their own appeals, especially

when numbers of pending appeals are high. The more opportunities to a particular taxpayer are always at the cost of denying opportunity to other taxpayer of getting his/her appeal heard early. Therefore, it is assumed that the appellant is not interested in pursuing his own appeal. Moreover, the appellant failed to bring on records any facts or documents which can explain how the order of the AO is erroneous.

In the case of Anil Goel Vs CIT, [2008] 306 ITR 212 (Punjab & Haryana), the Hon'ble High Court held as under:

"4. It is thus obvious on the plain language of section 250 of the Act that date and place of hearing was duly fixed. The assessee was also given notice along with notice to the Assessing Officer. The assessee had ample opportunity to make his submissions by appearing in person or through authorised representative. Despite fixing the case for seventeen hearings, no one had put in appearance nor any justifiable reason for adjournment was given.

5. The Tribunal also found that non-recording of reasons in support of order passed by CIT(A) would not amount to committing any illegality because the CIT(A) has adopted the reasoning advanced by the Assessing Officer and has upheld his order. The judgment of this Court, in the case of Popular Engineering Co. v. ITAT (2001) 248 ITR 577¹, has been rightly relied upon wherein it has been observed that elaborate reasons need not be recorded by the CIT(A) as has been done by the Assessing Officer. The reasons are required to be clear and explicit indicating that the authority has considered the issue in controversy. If the appellate/revisional authority has to affirm such an order it is not required to give separate reasons which may be required in case the order is to be reversed by the appellate/revisional authority."

Based on the information that Moksh Alloys Pvt. Ltd. was engaged in both providing and taking benefit of fake Input tax credit the assessment proceedings was initiated. As per the assessment order, total addition of Rs.81,44,211/- was made by the AO on account of unexplained expenditure u/s 69C of the Act. During the assessment proceedings, assessee has submitted that for the FY 2017-18, no material was procured from Moksh Alloys Pvt. Ltd. and the proprietary concern of appellant i.e. Tirupati Steels has sold material to Moksh Alloys Pvt. Ltd. During the assessment proceedings, purchase register was submitted by the appellant which contradicts his earlier submission. Further details of purchases/sales were requisitioned by the AO but not furnished by the appellant

during the assessment proceedings. In this regard, the AO has requisitioned details from the appellant of this transaction but no satisfactory submission was made by the appellant in this regard. Appellant during the course of assessment proceedings, not submitted satisfactory documentary evidences which substantiate his claim made during the proceedings Therefore, the AO has made an addition of Rs.81,44,211/- on account of unexplained expenditure u/s.69C of the Act being the bogus purchased made during the year.

During the appellate proceedings, the appellant has not complied to the notices issued nor filed any written submission which supports its grounds of appeal. Accordingly, I agree with the reasons given by the AO and confirm his action of making addition of Rs.81,44,211/- on account of unexplained expenditure u/s.69C of the Act. All the grounds of appeal are hereby dismissed.

7. In the result, the appellant's appeal is dismissed.”

5. As the assessee despite having been intimated about the fixation of hearing of the appeal had neither put up an appearance nor any application seeking adjournment has been filed before us, therefore, we are constrained to proceed with and dispose off the appeal as per Rule 24 of the Appellate Tribunal Rules, 1963.

6. Smt. Anubhaa Tah Goel, Ld. Sr. Departmental Representative (for short 'DR') at the threshold of hearing of the appeal submitted that though the present appeal involves a delay of 125 days but the same is not supported by any application seeking condonation of the same, therefore, the same was liable to be dismissed on the said count itself.

7. As stated by the Ld. DR, and rightly so, the present appeal involves a delay of 125 days. As the assessee had not filed any application seeking

condonation of the delay involved in filing of the present appeal, therefore, we are constrained to dismiss the appeal on the said count itself.

8. In the result, appeal filed by the assessee is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 20th day of January, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर / RAIPUR ; दिनांक / Dated : 20th January, 2025.

****SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT, Raipur-1 (C.G)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.