

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "एस.एम.सी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCHES, "SMC" CHANDIGARH
HEARING THROUGH: PHYSICAL MODE
श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA No. 698/Chd/2024
निर्धारण वर्ष / Assessment Year : 2017-18

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| M/s Sahibzada Timber & Ply Private Limited B41-42, Phase-3, Indl. Area, SAS Nagar Mohali, Punjab | बनाम | The DCIT Central Circle-2 Chandigarh |
| स्थायी लेखा सं. / PAN NO: AAQCS2239G | | |
| अपीलार्थी / Appellant | | प्रत्यर्थी / Respondent |

निर्धारित की ओर से / Assessee by : Shri Mohit Dhiman, C.A
राजस्व की ओर से / Revenue by : Dr. Ranjeet Kaur, Sr. DR

सुनवाई की तारीख / Date of Hearing : 08/01/2025
उद्घोषणा की तारीख / Date of Pronouncement : 20/01/2025

आदेश / Order

PER VIKRAM SINGH YADAV, AM

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)-3, Gurgaon dt. 30/04/2024 pertaining to Assessment Year 2017-18.

2. In the present appeal, the Assessee has raised the following grounds of appeal:

1. "That the order of the Id. CIT(Appeals)-3, Gurgaon passed u/s 250(6) dated 30.04.2024 is erroneous, contrary to the facts & bad in the eyes of Law.
2. That the Id. CIT(A) has erred in confirming the ad-hoc addition of Rs. 20,00,000/- made by the AO merely to cover possible leakages in the accounts of the Appellant without any cogent reasons and pointing out specific irregularities therein.
3. That the Id. CIT(A) has failed to appreciate that ad-hoc addition could not be made on blanket basis without recording any adverse finding by the AO that such expenses had not been incurred for the purpose of business.

4. *That the Id. CIT(A) has erred In confirming the ad-hoc addition in absence of any incriminating material unearthed for the relevant year during the search at the premises of the Appellant.*

5) *That the Appellant craves leave to append, amend or withdraw any ground of Appeal before the Appeal is finally heard or disposed off."*

3. Briefly the facts of the case are that the assessee has originally filed its return of income and consequent upon search and seizure operations u/s 132 of the Act, the said proceedings were abated and thereafter, in response to notice u/s 153A, the assessee filed its return of income which was taken up for scrutiny and notices u/s 143(3) and 142(1) were issued. During the course of assessment proceedings, upon perusal of the books of accounts alongwith bills and vouchers of the appellant for the year under consideration, various discrepancies were observed by the AO and after issue of showcause and considering the submissions so filed by the assessee but not finding the same acceptable, the AO made an addition of Rs. 20,00,000/- and assessed income was determined at Rs 49,18,920 vide order passed u/s 153A(1)(b) r/w 143(3) dated 22/04/2021.

4. Being aggrieved, the assessee carried the matter in appeal before the Id CIT(A) and submitted that addition of Rs.20,00,000/- was made by the AO on ad-hoc basis without pointing out any discrepancy in the books of accounts. It was contended that books of accounts of the appellant were audited and no discrepancy was pointed out by the AO during the assessment proceedings.

5. The Id CIT(A) has returned a finding that upon perusal of books of accounts of the appellant, certain discrepancies such as irregular maintenance of stock register, unverified stock, fluctuation in the selling price of some of the items, purchases from unregistered parties, unverified expenses claimed in P&L account, expenses of personal nature claimed in P&L account were confronted to the appellant and was given show cause by the AO as to why addition of Rs.

20,00,000/- was not made in order to prevent leakage of revenue emanating from these discrepancies. In response, the appellant offered disallowance of Rs.5,00,000/-. In view of the above facts, it is evident that the appellant was itself aware of the discrepancies in the books of accounts maintained for the year under consideration since it offered disallowance of Rs. 5,00,000/- itself. Moreover, the appellant has merely stated that addition of Rs. 20,00,000/- was made by the AO on ad-hoc basis without pointing out any any discrepancy in the books of accounts of the appellant. The appellant has not furnished any documentary evidence relating to above cited deficiencies to support its submission and to rebut the discrepancies mentioned by the AO in para 6 of the assessment order. Neither any reconciliation of stock and sale purchase fluctuation was made nor were any supporting documents given to enable the AO to examine the veracity of purchases and entire expenses. In the absence of supporting evidences, no merit is found in the submission of the appellant. Therefore, the addition of Rs.20,00,000/- was confirmed by the Id CIT(A).

6. Against the said findings and direction, the assessee is in appeal before us.

7. During the course of hearing, the Ld. AR submitted that both the authorities below have made/confirmed the addition purely on ad hoc basis based on surmises and presumptions which is clearly unwarranted. It was submitted that the order of the Id. CIT(A) is cryptic as no where it mentions the specific discrepancies or irregularities which were pointed out by the AO and which action has been confirmed by the Appellate Authority. The Appellant had submitted its reply against the show cause issued by the Assessing Officer and the same forms part of the paper book. That it is relevant to mention here that the Appellant had agreed for addition of Rs. 5,00,000 against the proposed addition by the AO amounting to Rs. 20,00,000/- in order to buy peace of mind

and avoid litigation. However, as the AO had proceeded to make the entire addition of Rs. 20,00,000/- just to cover possible leakages after having been provided all the documents and information sought in the questionnaire along with notice(s) issued u/s 142(1) from time to time, the same is illegal and unjust in the eyes of the law. It was submitted that there are catena of decisions which have settled the legal position that the adhoc addition/disallowance cannot be made without pointing out any specific irregularities and without rejecting the books of accounts and in support, reliance was placed on the Coordinate Chandigarh Benches decision in case of Pawan Aggarwal vs. Deputy Commissioner of Income-tax [2023] 154 taxmann.com 366 (Chandigarh - Trib.). It was submitted that the Id. CIT(A) in confirming the action of the Id. AO has failed to appreciate that the books of accounts had been audited during the year and no discrepancy had been pointed out by Revenue during the assessment proceedings for the relevant year. It was submitted that from the order of the AO, it is apparent that the AO had mentioned in its order "*an addition of Rs. 20,00,000/-is made to the income of the assessee to cover possible leakages in the accounts of the assessee company*" without specifically pointing out towards any expense(s) which had been incurred/claimed during the year and how that expense was not for the purpose of business of the assessee. Further, a blanket ad-hoc addition/ disallowance could not be made only to cover possible leakages in the accounts of the assessee.

8. The Id. DR was heard who has relied on order of the lower authorities.

9. Heard the rival contentions and perused the material available on record. On perusal of the assessment order, it is noted that the AO referred to gross profit for the year (15.44%) being higher than the previous year (14.18%) and lower net profit rate (1.52%) declared by the assessee as compared to earlier year (2.64%) and basis the same, carried out the examination of books of accounts and bill

and vouchers so submitted by the assessee and thereafter, issued a show cause highlighting various discrepancies and as to why addition of Rs 20,00,000/- should not be made and the contents of the show-cause read as under:

"Perusal of your stock registers reveals that the same is not maintained in a systematic manner on day to day basis. It shows many cuttings and over writings. Further, it has been observed that the sales made by the assessee company on day to day basis has not been shown/ verifiable from the stock register in outward column. Thus, the quantitative details of stock is not fully open to verification. Further, perusal of sale bills issued by the assessee company reveals fluctuations in the selling price of same item during the similar period. Further, some of the purchases have been made from unregistered parties, which are no more verifiable. Thus, in the facts and circumstances of the case, the trading results shown by you are not fully verifiable. Further, on perusal of bills/vouchers of expenses claimed in the P/L Account of the assessee company, it has been observed that some of the bills/vouchers are not available and some of the expenses have been claimed and supported by self generated cash vouchers only, which are of unverifiable nature. Further, some of the expenses of personal nature have been claimed in travelling expenses account. Moreover, personal use of the car and telephone has not been ruled out during discussion. Considering all these facts and circumstances of the case, the assessee company is required to show cause as to why an addition of Rs. 20,00,000/- may not be made to the income of the assessee company to cover possible leakages in the accounts of the assessee."

10. In response, the assessee submitted that the books of accounts were audited and all the expenses have been incurred for the purposes of business and are reasonable keeping the size and nature of the business carried out by the assessee, that the expenses on account of travelling, telephone, and others had been claimed for which the bills/vouchers have been produced, that the assessment pertains to earlier period and some of the old records may not have been traced by the staff and the quantum of proposed addition is on a higher side and it was requested that addition may not be made and at the same time, it was submitted that where the AO still like to proceed with the addition, the same may be kept to minimal possible i.e, Rs 5,00,000/- in the interest of justice. The AO however, didn't agree with the submissions so made and made

the addition of Rs 20,00,000/- which on appeal has been confirmed by the Id CIT(A).

11. It is therefore a case where the trading results have been held not fully verifiable and besides that, certain other discrepancies in terms of non-availability of bills and vouchers, which the assessee also admitted being old record and couldn't be produced and self generated cash vouchers and personal usage of vehicles, etc. The discrepancies so highlighted by the AO could be rebutted by the assessee as rightly held by the Id CIT(A) and even during the present proceedings, the Id AR reiterated the submissions made before the lower authorities which have already been addressed by the Id CIT(A). However, as far as quantification of disallowance is concerned, I find that the AO has simply worked out the differential net profit rate as compared to previous year and applied the same on the reported turnover and has worked out the disallowance of Rs 20,00,000/- and which has been summarily upheld by the Id CIT(A). In this regard, on perusal of the comparative position of reported figures, it was noted that the assessee has reported a lower turnover by 27.32% as compared to previous year, cost of goods sold as percentage of turnover has been reported at 84.55% as compared to 85.82% in previous year, employee cost has been claimed at a lower figure of Rs 14,58,047/- as compared to Rs 64,86,085/- in previous year, other expenses have been claimed at Rs 21,07,893/- as compared to Rs 38,68,427/- and as far as finance cost is concerned, the same has been claimed at a higher figure of Rs 2,35,46,323/- as compared to Rs 1,94,87,510/- on account of increase interest payout to the banks and I find that the numbers thus reflect a declining trend in the assessee's business and the basis so adopted by the AO in quantifying the disallowance by simply comparing the figures for the earlier year is not borne out of records and the same cannot be accepted. At the same time, considering the discrepancy so highlighted earlier and non-production of records being old which couldn't

be traced and produced for verification and taking into consideration, the entirety of facts and circumstances of the case, it would be just and proper to restrict the disallowance to Rs 5,00,000/- and remaining addition is hereby directed to be deleted.

12. In the result, the appeal of the assessee is partly allowed.

(Order pronounced in the open Court on 20/01/2025)

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य / ACCOUNTANT MEMBER

AG

Date: 20/01/2025

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar