

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER

ITA.Nos.579, 576, 577/NAG./2024 [E-APPEALS]
Assessment Years 2013-2014, 2014-2015 & 2015-2016

The Income Tax Officer, Ward – 2 (1), Aaykar Bhawan, Room No.316, 3 rd Floor, Civil Lines, NAGPUR – 440 001. Maharashtra.	vs.	Datamatic Systems Pvt. Ltd., B/S. NGDA Service Station, 3/4, Buty Bldg., Buty Compound, Mount Road, Sadar, NAGPUR. PIN – 440 001 PAN AACCD9151C
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Sandipkumar Salunke, CIT-DR

Date of Hearing :	28.01.2025
Date of Pronouncement :	30.01.2025

ORDER

PER V. DURGA RAO, J.M. :

The above three appeals are filed by the Revenue against the respective orders of the learned CIT(A)-National Faceless Appellate Centre [in short “NFAC”], Delhi, all dated 20.09.2024 relating to assessment years 2013-2014, 2014-2015 and 2015-2016, respectively. Since common issues are involved in these appeals, these appeals were heard together and are being disposed

of by this consolidated order for the sake of convenience and brevity.

2. During the course of hearing, none appeared for assessee, despite service of notice. We, therefore, proceed to decide the appeals of the Revenue after hearing the Learned DR.

3. Facts of the case, in brief, are that the assessee had not filed its return of income for the assessment year 2013-2014. As per the information available with the Department, the assessee has received payment as contractor. Therefore, the case of the assessee was reopened u/sec.147 of the Act after taking necessary approval from the Competent Authority. A notice u/sec.148 of the Act was issued along with questionnaire. Since, assessee did not file any reply to the notice issued u/sec.148, statutory notices u/sec.142(1) and show cause notice u/sec.144 of the Act were also issued. Despite the above notices, the assessee did not file any reply. Therefore, the Assessing Officer passed ex-parte assessment order u/sec.147 r.w.s.144B of the Act by determining the total income of the assessee at Rs.6,46,98,724/- for the assessment year 2013-14 by making additions of Rs.6,33,92,285/- on account of receipt on contracts, Rs.8,67,030/- on account of professional or technical fee, Rs.4,39,409/- on account of

commission/brokerage respectively. For the assessment year 2014-2015, he determined the total income of the assessee at Rs.1,39,55,760/- by making addition of Rs.1,19,02,361/- and professional and technical fee of Rs.7,717/- as against the returned income of Rs.20,45,680/-. For the assessment year 2015-2016 the Assessing Officer determined the total income of the assessee at Rs.1,84,26,050/- by making addition on account of contract income at Rs.1,37,27,496/-; commission/brokerage of Rs.10,86,267/-, cash deposits of Rs.13,50,000/- as against the returned income of Rs.22,62,280/-.

4. Aggrieved by the orders of the Assessing Officer, the assessee carried the matter in appeal before the learned CIT(A).

5. During the course of appellate proceedings before the learned CIT(A), he noted that if the assessee fails to comply with terms of notice issued u/sec.142(1), the Assessing Officer has to gather relevant material and to make the assessment of the total income to the best of his judgment u/sec.144 of the Act and determine the sum payable by the assessee on the basis of such assessment as held in the case of Swadesh Polytex Ltd., vs. ITO 127 ITR 287 and the decision of Hon'ble Delhi High Court in the case of CIT vs. Motor General Finance Ltd., 254 ITR 449 (Del.). The

learned CIT(A) noted that the addition made by the Assessing Officer on account of entire contractual receipts for the impugned assessment years under consideration are not inconsistent with the basic principles of accountancy and the provisions of the Income Tax Act. He, therefore, reduced the contractual receipts addition by applying profit rate of 15% which comes to Rs.95,08,843/- as against Rs.6,33,92,285/- for the assessment year 2013-2014. For the assessment year 2014-2015, it was restricted to Rs.49,28,340/- as against Rs.4,64,93,471/-. For the assessment year 2015-2016 the contractual receipts were restricted to Rs.57,32,608/- as against the addition of Rs.5,32,99,254/-. Similarly for the assessment years 2013-2014 and 2014-2015, he restricted the receipt of professional or technical fee @ 50% i.e., Rs.4,33,515/- and Rs.3,859/- respectively. For the assessment year 2015-2016 the Assessing Officer confirmed the addition of Rs.13,50,000/- made on account of cash deposit, as the assessee failed to comply to substantiate its case. Accordingly, the learned CIT(A) partly allowed the appeals of the assessee.

6. Aggrieved by the orders of the learned CIT(A), the Revenue carried the matter in appeals before the Tribunal.

7. During the course of hearing, the Learned DR submitted that the Assessing Officer made the impugned additions on account of receipts of contract money, technical and professional fees and the impugned cash deposit after providing adequate opportunity to the assessee. In absence of any documents furnished by the assessee to substantiate its case, the Assessing Officer has rightly passed the ex-parte assessment orders as he has left with no option. He, therefore, submitted that the assessment orders of the Assessing Officer be confirmed.

8. We have heard the Learned DR, perused the orders of the authorities below. We find that the Assessing Officer passed the impugned ex-parte orders u/sec.147 r.w.s.144B of the Act and made the impugned additions on account of receipt of contracts, receipt of professional or technical fee. Since the addition made by the Assessing Officer is not consistent with either of principles of accountancy or under the provisions of Income Tax Act, the learned CIT(A) has rightly restricted the additions made by the Assessing Officer. We, therefore, find no infirmity in his orders under challenge. We, accordingly, confirm the orders of the learned CIT(A) and dismiss the grounds raised by the Revenue.

9. In the result, all the three appeals of the Revenue are dismissed. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 30.01.2025.

Sd/-
(KHETTRA MOHAN ROY)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 30th January, 2025

VBP/-

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1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned
4.	The CIT, Nagpur concerned
5.	The D.R. ITAT, Nagpur Bench, Nagpur
6.	Guard File.

//By Order//

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Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.