



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।
**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**
आयकरअपीलसं./ITA No.805/RJT/2024
निर्धारणवर्ष / **Assessment Year: (2021-22)**

Assistant Commissioner of Income-tax, Circle-1(1), Rajkot, Room No.502, Aayakar Bhavan, Race Course Ring Road, Rajko-360 001	बनाम Vs.	Symbosa Granito Pvt. Ltd. Survey No.125P1/P2, 126, 131P1/P2/P3, Village Matel, Wankaner-363 621
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAVCS 2143 L		
(अपीलार्थी/assessee)	..	(प्रत्यर्थी/Respondent)

निर्धारितीकीओरसे/Assessee by : Shri Mehul Ranpura, AR

राजस्वकीओरसे/Revenue by : Shri Abhimanyu Singh Yadav, Sr-DR

सुनवाईकीतारीख/**Date of Hearing** : **06/02/2025**

घोषणाकीतारीख/**Date of Pronouncement** : **02/05/2025**

आदेश/**Order**

Per Dr. Arjun Lal Saini, A.M

Captioned appeal filed by the Revenue, pertaining to assessment year (AY) 2021-22, is directed against the order passed by the National Faceless Appeal Centre, Delhi/Commissioner of Income-tax (Appeal) [in short 'NFAC/Ld. CIT(A)'], dated 13.08.2024, which in turn arises out of an assessment order passed by the Assessing Officer (short as 'assessing officer'), u/s 143(3) r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), dated 15.12.2022.

2. The grounds of appeal raised by the Revenue are as follows:



(1) The Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.1,42,92,688/- made on account of undisclosed sales for the year under consideration.

(ii) The Ld. CIT(A) erred in law and on facts by shifting the onus of proving the non-recording of expenses related to undisclosed sales on the assessing officer when it was assessee's onus to provide complete names, bills, vouchers made & proof of payment etc, for all the parties from whom the purported undisclosed purchases were made & without them it was to be fairly presumed that all expenses have been duly accounted for in the P&L account.

(iii) The above grounds are mutually exclusive and without prejudice to each other. The appellant leaves have to add, amend, alter, vary omits or substitute the above grounds of appeal at any time before or at time of hearing of the appeal so as to enable, Hon'ble ITAT to decide this appeal according to the Law.

(iv) It is, therefore, prayed that the order of the CIT(A) be set aside and that of the assessing officer be restored to the above extent.”

3. Brief facts of the issue in dispute are stated as under. The assessee's case was selected for compulsory scrutiny as per guidelines issued by CBDT under specific information regarding tax evasion pointed out by any law-enforcement agency. As per information the assessee has suppressed its sales and evaded the tax thereof. The assessee- company has filed its return of income on 28/02/2022 in ITR-6, declaring total income of Rs. Nil. The assessee -company has shown income of Rs.1,15,63,194/-, from business and profession and Rs. 54,021/-, from short- term capital gains. The company has set off brought forwarded losses against income of Rs.1,16,17,215/-. The assessee-company is engaged in the manufacturing of Ceramic Vitrified Tiles. In this case, a search action was carried out on 16/12/2020 at the business premise of the assessee -company by GST Department. During the search proceedings, the assessee admitted that it had supplied goods valued at Rs.1,72,51,283/- without any invoice and without making payment of GST, during the period 16.08.2020 to 01.12.2020. Therefore, notices u/s 143(2) and 142(1) of the Act, were issued to the assessee on various dates. In compliance to the aforesaid notices, the assessee submitted its replies electronically along with its annexure/supporting documents on different dates, before the assessing officer. During the



assessment proceedings they assessee submitted its reply before the assessing officer, which is reproduced below:

*“REPLY: Income on declared sales of Rs 29,58,595/- is shown as under:
Sales declared during the GST Survey as undisclosed: Rs 1,72,51,283.00*

Considering the Gross Profit Ratio of the year @ 17. 15%, we have disclosed the same as other income of Rs. 29,58,595.00 [i.e 17.15% of Rs 1,72,51,283.00]. We hereby enclose required documents regarding GST Survey conducted during the year for your ready reference.”

4. However assessing officer rejected the above contention of the assessee and observed that assessee- company failed to furnish explanation in this regard. In this case, the assessee has shown and admitted that there was cash outstanding from debtors of the company at Rs. 1,72,51,283/- on 01/12/2020. During search of GST, the company also accepted that it made sales without invoice and in cash. It shows that the company has accounted for all the manufacturing expenses such as purchase freight etc, in its regular books. But sales are not accounted for in regular books of account. Therefore, it is clear that the assessee has suppressed its income by Rs.1,42,92,688/- (1,72,51,283-29,58,595), Accordingly, addition of Rs.1,42,92,688/- was made by the assessing officer as undisclosed income of the assessee- company.

5. Aggrieved by the order of Assessing Officer, assessee carried the matter in appeal before the Ld. CIT(A), who has allowed the appeal of the assessee. The learned CIT(A) observed that assessing officer was not justified in holding that the entire undisclosed sales represents, undisclosed income of the assessee without considering expenses of production and purchase of raw material etc. The assessing officer had also himself admitted that these are sales related to the assessee. Once sale has been accepted by the assessing officer, then expenses related to these sales will also have to be allowed. In view of the above, the Ld.CIT(A) noticed that assessing officer was not Justified in making the



addition of Rs. 1,42,92,688/- and therefore learned CIT(A) deleted the addition.

6. Aggrieved by the order of the Ld. CIT(A), the Revenue is in appeal before us.

7. Learned Senior DR for the Revenue, vehemently argued that a search action was carried out on 16.12.2020, at the business premises of the assessee by the GST Department. During search proceedings, assessee admitted that it had supplied goods valued Rs.1,72,51,283/- without any invoice and without making payment of GST during the period 16.08.2020 to 01.12.2020. Therefore, the Ld. Sr-DR submitted that the entire sales represented undisclosed income of the assessee, as all expenses of production and purchase including raw materials etc; might have been incorporated in manufacturing and profit and loss account and the sales are not accounted for in regular books of accounts, therefore, addition made by Assessing Officer may be sustained.

8. The Ld. DR for the revenue also submitted written submission, before us. This sum and substance of the written submission of Ld. DR for the revenue are that since the undisclosed sales admitted by the taxpayer, Symbosa Granito Private Limited, during the search by the GST Department, must be treated as undisclosed income. The taxpayer's argument to restrict the addition to the gross profit derived from these sales is untenable, as all manufacturing expenses have already been incorporated into the regular books of account, and there is no legitimate basis to allow further deductions for the undisclosed sales.

9. On the other hand, Ld. Counsel for the assessee, argued that during assessment proceedings, Assessing Officer has himself admitted that these are sale transactions, which related to the assessee-company. Once the sale has been accepted by the Assessing Officer then expenses related to these sales will also



have to be allowed by the Assessing Officer. Therefore, Ld. Counsel contended that addition made by the Assessing Officer has rightly been deleted by Ld. CIT(A).

10. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Ld CIT(A) and other materials brought on record. Though facts have been discussed in detail in the foregoing paragraphs, however in the succinct manner, the relevant facts and background are reiterated in order to appreciate the controversy and the issue for adjudication. It is observed that the assessee had filed return of income(ROI) on 28/02/2022, disclosing total Income at NIL. The case was selected for scrutiny in view of CBDT guidelines under specific information regarding tax evasion pointed out by any law enforcement agency. A search action was carried out on 16/12/2020 at the business premises of the assessee by the GST Department. During the Search Proceedings, the assessee admitted that it had supplied goods valued at Rs 1,72,51,283/- without any invoice and without making payment of GST during the period 16-08-2020 to 01-12-2020. In compliance to notices u/s 143(2) and 142(1), the assessee filed its reply electronically on various dates along with its annexures/ supporting documents like copy of ITR, computation of income, audit report, bank account statements. Panchnama copy related to GST search, undisclosed sales list, details/ ledger of expenses, working of STCG etc, were submitted. In the ITR, the assessee had shown 'Income on declared sales of Rs.29,58,596/- under 'other Income.' On further query, the assessee submitted as under:

"Income on declared sales of Rs. 29,58,595 is shown as under:

Sales declared during the GST survey as undisclosed: Rs. 1,72,51,283.00

Considering the Gross Profit Ratio of the year @17.15%, we have disclosed the same as other income of Rs. 2958595.00 [i.e. 17.15% of Rs. 17251283.00]. We hereby



enclose required documents regarding GST survey conducted during the year for your ready reference."

However, the assessing officer rejected the submission of the assessee by holding that the entire sales represents undisclosed income of the assessee as all expenses of production/purchase including raw material etc, had already been incorporated in manufacturing/trading/profit and loss account and that these outstanding amounts/ sales are not accounted for in credit side of the P&L Account, and if the P&L account is recast as per the assessee's version, the excess G.P. will be worked out at Rs. 1,72,51,283/-while it has shown G.P. at Rs. 29,58,595/-. The assessing officer therefore added the difference amount of Rs. 1,42,92,688/- (Rs. 1,72,51,283-Rs. 29,58,595).

11. During the appellate proceedings, before Id CIT(A), the assessee reiterated the same facts and submission before the Id CIT(A) and the assessee submitted the same documents and evidences which were submitted before the assessing officer. The Id CIT(A) after going through the reply of the assessee, observed that the assessing officer has stated in the assessment order that all expenses of production/ purchase including raw material etc. has already been incorporated /debited in manufacturing / trading/ P&L Account. How the assessing officer has arrived at this conclusion, has not been spelled out in the order. This is merely an assumption not borne out of facts. This can be borne out from the quantitate details submitted in the Tax Audit Report and the assessing officer has not brought any evidence on record that the expenses related to these undisclosed sales are debited in the books of accounts. The assessing officer was therefore not justified in holding that the entire undisclosed sales represents undisclosed income of the assessee without considering expenses of production and purchase of raw material etc. The assessing officer has also himself admitted that these are sales related to the assessee. Once sale has been accepted by the assessing officer, then expenses related to these sales will also have to be



allowed. In view of the above, the assessing officer was not Justified in making the addition of Rs 1,42,92,688/- and therefore addition was deleted, by Id CIT(A). That being so, we decline to interfere with the order of Id. CIT(A) in deleting the aforesaid additions. His order on this addition is, therefore, upheld and the grounds of appeal of the Revenue are dismissed.

12. In the result, appeal filed by the revenue is a dismissed.

Order is pronounced in the open court on 02/05/2025

Sd/-

(DINESH MOHAN SINHA)

न्यायिकसदस्य/**JUDICIAL MEMBER**

राजकोट/Rajkot

दिनांक/ Date:02 /05/2025

DKP Outsourcing Sr.P.S

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The assessee
- प्रत्यर्थी/ The Respondent
- आयकरआयुक्त/ CIT
- आयकरआयुक्त(अपील)/ The CIT(A)
- विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

Sd/-

(DR. ARJUN LAL SAINI)

लेखासदस्य/**ACCOUNTANT MEMBER**

By order/आदेशसे,

सहायकपंजीकार

आयकरअपीलीयआधिकरण, राजकोट