

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA No. 1342/PUN/2019

निर्धारण वर्ष / Assessment Year : 2014-15

Rajendra Sukhdev Mirgane, Nawandar House, First floor, 1156, Saifee Street, Opp. Videotron, M.G. Road, Pune 411 001 PAN : ABEPM4559M	Vs.	DCIT, Circle-3, Pune
Appellant		Respondent

Assessee by Shri Sarang Gudhate
Revenue by Shri Arvind Desai

Date of hearing 11-08-2022
Date of pronouncement 16-08-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-3, Pune on 01-04-2019 in relation to the assessment year 2014-15.

2. The first issue raised in this appeal is against the confirmation of addition of Rs.1,46,02,063/-.

3. Briefly stated, the facts of the case are that the assessee is a Builder and Contractor, who filed the return of income declaring total income at Rs.2.18 crore. During the course of assessment

proceedings, the Assessing Officer (AO) observed that the assessee had debited Rs.61,96,457/- and Rs.84,05,606/- towards payment made to sub-contractor, Shri S.N. Ubale in respect of the Koradi LBC work/Koradi RBC work. Since the assessee could not furnish necessary details in respect of the said payments, the AO made disallowance for such sum. During the course of proceedings before the CIT(A), the assessee furnished additional evidence to prove the genuineness of the claim of expenditure. The Id. CIT(A) called for the remand report from the AO on such additional evidence. Unconvinced, he sustained the disallowance, against which the assessee has come up in appeal before the Tribunal.

4. We have heard the rival submissions and gone through the relevant material on record. It is seen that the assessee a, builder and contractor, paid sums of Rs.61,96,457/- and Rs.84,05,606/- to a sub-contractor, namely, Shri S.N. Unable towards Koradi LBC/RBC work. Though the relevant details could not be furnished at the stage of the assessment, the assessee did furnish details before the Id. CIT(A) which include the bills raised by

Shri S.N. Ubale, evidence of his offering the amount received from the assessee as income along with his return of income and also necessary evidence of payment by the assessee after due deduction of tax at source. We have also gone through such details, copies of which have been placed in the paper book. Pages 21 to 23 represent the bills raised by Shri S.N. Ubale, giving complete break-up of the nature of work done by him, namely, Excavation in Soft Strata, Excavation in Hard Strata, P&L M-15 Concrete for CD work, Steel reinforcement, RCC pipes, etc., as per bill dt. 23-04-2013; and Excavation in Soft canal, Excavation in Soft strata for structure, Excavation in HS for canal etc., as per bill dt. 22-04-2013. The assessee paid the amounts to Shri S.N. Ubale after due deduction of tax at source. Payment has been made through banking channel, whose evidence is also available on record. From such details, it is apparent that the assessee adequately satisfied the genuineness of the expenditure incurred in the execution of his contract business. We, therefore, set-aside the impugned order to this extent and order to delete the addition.

5. The only other ground which survives in this appeal is against the confirmation of disallowance of interest expenditure of Rs.3,13,414/- paid on delayed payment of TDS.

6. The facts of this issue are that the assessee debited interest of Rs.3,13,414/- on late payment of TDS. This amount was not allowed as deduction, which view got countenanced in the first appeal. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

7. Having heard the rival submissions and gone through the relevant material on record, it is seen as an admitted position that the assessee was required to deduct and pay tax at source. There was delay in making the payment of tax, which led to the charging of interest by the Income-tax Department to the tune of Rs.3,13,414/-. In our considered opinion, neither the amount of income-tax nor interest on income-tax can be allowed as deduction, which is strictly prohibited in terms of section 40(a)(ii) of the Act. We, therefore, uphold the impugned order on this score.

8. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 16th August, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 16th August, 2022
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-3, Pune
4. The Pr.CIT-2, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
DR 'B', ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	11-08-2022	Sr.PS
2.	Draft placed before author	11-08-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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