

IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCH 'B', CHANDIGARH

BEFORE SMT.DIVA SINGH, JUDICIAL MEMBER
AND SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

ITA No. 321/Chd/2020
(Assessment Year: 2016-17)

Vijay Pal Jhamb, Vijay Goods Carrier, Ladwa Road, Pipli, Kurukshetra.		Income Tax Officer, Ward-2, Kurukshetra.
PAN NO: ADAPJ4596K		

Assessee by : Shri Parikshit Aggarwal, CA
Revenue by : Shri Arvind Sudershan, Sr.DR
Date of Hearing: 01.03.2022
Date of Pronouncement: 02.03.2022

(Hearing through Webex)

ORDER

Per Vikram Singh Yadav, Accountant Member:

This is an appeal filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), Karnal [in short the ' Ld. CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (in short 'the Act') dated 03.07.2020 relating to assessment year 2016-17, wherein the assessee has taken the following grounds of appeal:

- “1. On the facts and the circumstances of the law, the Ld. CIT(A) has grossly erred in sustaining the addition.*
- 2. In the circumstances and on facts, the Ld. CIT(A) has grossly erred both in law and on merit in not deciding the real issue behind addition made by the Ld. A.O.*
- 3. Without prejudice to above grounds:- The Ld. CIT grossly erred in sustaining addition of whole amount of turnover rather than component in it.”*

2. Briefly, the facts of the case are that the assessee, who is proprietor of M/s Vijay Good Carrier, has filed his return of income declaring taxable income of Rs. 7,05,630 /-, which was selected for scrutiny through CASS to verify whether contract receipts/fees have been correctly offered to tax. Subsequently, notices u/ss 143 (2) and 142 (1) of the Act were issued to furnish details regarding contract receipts u/ss 194C and 194 J of the Act, as per Form 26 AS alongwith documentary evidence. In response, no reply was filed by the assessee. Thereafter, from the perusal of the return of income filed by the assessee, the AO observed that the assessee has shown gross receipts from contract business amounting to Rs.80,99,254 /-, whereas gross receipts from contract business as per Form No. 26AS comes to Rs. 1,24,26,755 /-, hence the assessee has shown short gross receipts of Rs.43,26,755 /- and a show cause notice was issued to the assessee as to why the contract receipts

amounting to Rs.43 ,26 ,755 /- may not be added to the taxable income. In response, again no reply was filed by the assessee. Thereafter, in absence of any explanation regarding the difference between gross contract receipts as per Form 26AS and the gross contract receipts shown in the return of income, the amount of Rs. 43 ,26 ,755 /- was added to the taxable income of the assessee and the assessment was completed u/s 144 of the Act at an assessed income of Rs.50,32,385/-.

3. Being aggrieved, the assessee carried the matter in appeal before the Ld.CIT(A). The Ld. CIT(A) after taking into consideration the submissions so filed by the assessee and Remand Report of the AO, has confirmed the addition so made by the AO and the relevant findings of the Ld.CIT(A) are contained at para 3.4, which read as under:

“Findings:-

I have examined the facts of the case, the remand report of the Assessing Officer (A.O.) dated 12.03.2020.

In this case an addition of Rs. 43,26,755/- was made due to the difference between gross contract receipts of Rs.1,24,26,755/- as per Form 26AS and Rs.80,99,254/- being the figure shown as gross contract receipts as per the ITR, The A.O. has in para 6 of his remand report/ clearly stated that the assessee has not filed any documentary evidence to reconcile the difference in entries. Even in the counter-comments to the remand report filed, the appellant has first tried to evade the issue by saying that the difference was not in his control due to them being added by the third party in the 26 AS Form.

In my opinion, this is just an excuse to evade the issue and no concession can be granted on that. Hence, I confirm the addition made.

The grounds of appeal are dismissed.”

4. During the course of hearing, the Ld. AR submitted that only real income in the hands of the assessee can be brought to tax and though the assessee couldn't submit the reconciliation as sought before the lower authorities, all the documents and ledger accounts are on record and the assessee is in position to reconcile the difference between the contract receipts shown in the return of income and as per Form No.26 AS from its ledger accounts and one more opportunity may be granted to the assessee in this regard in the interest of substantial justice.

5. Per contra, the Ld. DR submitted that the assessee has been granted more than sufficient opportunities both by the AO during the course of assessment proceedings as well as by the Ld. CIT(A) and even during the remand proceedings, the assessee has failed to offer any reconciliation regarding contract receipts shown in the return of income and as per Form No.26AS.

6. After hearing both the parties and considering the material available on record, we believe that the assessee

deserves one more opportunity to reconcile the difference between the contract receipts as shown in the return of income and as per Form No. 26 AS taking into consideration the fact that the Ld. AR has stated at the Bar that the assessee is in position to reconcile the difference and in fact, there are no differences in the contract receipts which have been offered in the return of income as contractually accrued to him and receipts as per Form 26 AS which the assessee can demonstrate through his books of accounts and supporting documentation once an opportunity is provided to the assessee. Therefore, taking into consideration the undertaking so given by the Ld. AR and with the understanding that the assessee shall cooperate and shall not abuse the opportunity so provided, the matter is set aside to the file of the AO to verify the differences after providing reasonable opportunity of hearing to the assessee. The assessee is also directed to cooperate in the timely completion of the proceedings, as so directed by the AO. In the event the assessee fails to avail of this opportunity and/or fails to offer necessary explanation to reconcile the differences to the satisfaction of the AO, the AO is at liberty to decide the matter as per law.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 02.03.2022.

Sd/-

(DIVA SINGH)

Judicial Member

Sd/-

(VIKRAM SINGH YADAV)

Accountant Member

Dated: 02.03.2022

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, CHANDIGARH
6. Guard File

By order,

Assistant Registrar