

आयकर अपीलिय अधीकरण, न्यायपीठ – " सी " , कोलकाता,  
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH : KOLKATA

(समक्ष) श्री एस. भी.मेहरोत्रा , लेखा सदस्य एवं श्री महावीर सिंह, न्यायीक सदस्य, )  
[Before Sri S.V. Mehrotra, A.M. & Sri Mahavir Singh, J.M.]

आयकर अपील संख्या / I.T.A No. 1057/Kol/2011

Assessment Year : 2008-2009

Income Tax Officer, Ward-1, Nadia -vs.- M/s. St. Joseph Construction, Nadia  
(अपीलार्थी /Appellant) (प्रत्यर्थी/Respondent)  
(PAN : AARFS 4035 J)

For the Applicant (अपीलार्थी ) : Shri A.K. Pramanick, D.R.

For the Respondent (प्रत्यर्थी) : N o n e

सुनवाई की तारीख/Date of Hearing : 26.12.2011

घोषणा की तारीख/Date of Pronouncement : 26.12.2011

आदेश/ORDER

Per Shri S.V. Mehrotra, Accountant Member/ श्री एस. भी.मेहरोत्रा , लेखा सदस्य :-

This appeal filed by the Revenue is against the order of Id. Commissioner of Income-Tax (Appeals)-XXXVI, Kolkata dated 18.05.2011 for the assessment year 2008-09.

2. Brief facts of the case are that in the relevant assessment year, the assessee-firm derived income from business of civil construction. The assessee had filed its return of income declaring total income of Rs.68,970/-. The Assessing Officer noticed from the audited Balance-sheet and Profit & Loss A/c. the total receipt shown by the firm was at Rs.57,73,804/-. In support of its receipts, the assessee-firm had filed TDS certificates received from Missionaries of Charity, which certified making a total payment of Rs.57,73,804/- during the financial year 2007-08. The Assessing Officer observed that while examining the 26AS of the assessee-firm generated from the Departmental data base, it was found that the assessee-firm received the following amounts during the financial year 2007-08 from different organizations and TDS had been deducted accordingly as per chart below :-

SN	TAN	Name of the concern from whom payment received for construction work by the assessee-firm	Amount paid by the concern to the assessee-firm during the financial year 2007-08	TDS
1.	CALJ03089C	Jesus and Mary West Bengal Education Society	Rs.4,55,543/-	Rs.10,323/-
2.	CALMO3197F	Missionaries of Charity	Rs.57,73,804/-	Rs.1,30,628/-
3.	CALTO4029E	The Roma Catholic Diocese of Krishnanagar	Rs.50,00,000/-	Rs.1,08,158/-
		Total	Rs.1,12,29,347/-	Rs.2,49,109/-

From these informations, the Assessing Officer concluded that the assessee had not disclosed receipts totaling to Rs.54,55,543/- in its accounts. The Assessing Officer issued summons under section 131 to the Accountant of The Roman Catholic Diocese of Krishnanagar, Nadia, who produced following documents before the Assessing Officer :-

- (1) Work order of The Roman Catholic Diocese of Krishnanagar given to assessee vide Memo No. CM(K) 2006 dated 20.02.2006,
- (2) Photocopy of TDS certificate;
- (3) Photocopy of payment certificate for the financial year 2007-08;
- (4) Provisional receipt copy of submission of TDS return in Form No. 26Q.

From these documents, the Assessing Officer concluded that the assessee-firm had received an amount of Rs.50,00,000/- from The Roman Catholic Diocese of Krishnanagar during the financial year 2007-08, but the assessee-firm did not disclose this gross receipt as well as income to the revenue. The Assessing Officer has also examined the date of issue of cheque by The Roman Catholic Diocese of Krishnanagar, and also deposit in the assessee's Bank a/c., the details of which are given at pages 5-6 of assessment order and from these details, he pointed out that the partners of the assessee-firm admitted that an additional amount was received besides the amount specified earlier in the return filed for the assessment year 2008-09. He has reproduced the details from the written submissions of the partners. The Assessing Officer also examined the purchases made by the assessee and from all the details after considering the

assessee's explanation concluded that the assessee concealed the receipts from different organizations amounting to Rs.54,55,53/- and made an addition of Rs.54,55,543/-. He also observed that the details of purchases furnished by the assessee from Hindustan Hardware, Krishnanagar, Nadia amounting to Rs.17,56,021/- were genuine and, therefore, no action was called for on this account.

3. Ld. CIT(Appeals) after considering the assessee's submissions directed the Assessing Officer to reject the books of accounts of the assessee-firm since the assessee had concealed huge contractual receipts to the tune of Rs.54,55,543/-. He also directed the Assessing Officer to estimate the profit @ 8% on the entire receipts of Rs.1,12,29,347/- equivalent to Rs.8,98,348/-, net of all expenses including salary and interest payments to partners.

4. At the time of hearing, none appeared on behalf of the assessee. Learned Departmental Representative relied on the order of Assessing Officer.

5. We have considered the submissions of ld. D.R. By considering the totality of the facts and circumstances of the case, in our opinion, no interference is called for in the order of ld. CIT(Appeals) as he has directed the Assessing Officer to compute net profit at 8% on the entire receipts including the receipts found to have been concealed by the assessee. In any case, the entire receipts, as added by the Assessing Officer, could not be added because it is not disputed that the impugned amount had been received from the contract work carried on by the assessee. It is not the case of Assessing officer that the source of impugned sum of Rs.54,55,543/- was other than the business. Therefore, we confirm the order of ld. CIT(Appeals) and reject the ground of appeal taken by the Revenue.

6. In the result, the appeal filed by the Revenue is dismissed.

**परिणामतः विभाग का अपील खारिज किया जाता है।**

**ORDER PRONOUNCED IN THE OPEN COURT ON 26/ 12 /2011.**

खुली अदालत में स्पष्ट आदेश 26/12/2011.

Sd/-

[ Mahavir Singh /महावीर सिंह]

Judicial Member/ न्यायीक सदस्य

Dated : 26/ 12/ 2011

Sd/-

[S.V. Mehrotra/ (एस. भी.मेहरोत्रा)]

Accountant Member/ लेखा सदस्य

Copy of the order forwarded to:

1. M/s. St. Joseph Construction, R.C. Para, Cathedral Road, P.O. Krishnanagar, Nadia.
2. ITO, Ward-1, Nadia
3. Commissioner of Income-tax (Appeals)- , Kolkata
4. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata

(True Copy)

By Order

Assistant Registrar, I.T.A.T., Kolkata

Laha, Sr. P.S.