www.taxguru.in

IN THE INCOME TAX APPELLATE TRIBUNAL "B(SMC)" BENCH KOLKATA

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No.252/Kol/2023
Assessment Year: 2015-16

Sandhya Agarwal C/o Subash Agarwal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite 213, 2nd floor, Kolkata-700069. (PAN: ADAPA 3319 F)	Vs.	Assistant Commissioner of Income Tax, Circle-28, Kolkata.
(Appellant)		**(Respondent)**

Present for:

Appellant by : Shri Siddarth Agarwal, Advocate
Respondent by : Shri P. P. Barman, Addl. CIT, Sr. DR

Date of Hearing : 20.06.2023
Date of Pronouncement : 23.06.2023

O R D E R

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide Appeal No. ITBA/NFAC/S/250/2022-23/1043061411(1) dated 18.05.2022 passed against the assessment order by ACIT, Circle-28, Kolkata u/s.143(3) of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 30.10.2017 for AY 2015-16.

2. Ground taken by the assessee is in respect of addition of Rs.14,02,259/- made on account of mismatch between the contract receipts reflected in Form 26AS vis-à-vis reported by the assessee in its return of income. The difference has been treated as undisclosed

contract receipt by the Ld. AO for which the assessee is in appeal before the Tribunal.

3. Brief facts of the case are that assessee filed her return reporting a total income of Rs.15,12,100/-. Case of the assessee was selected for scrutiny by identifying the following three issues:

(i) Contract receipt/fees mismatch;

(ii) Sales turnover mismatch;

(iii) Tax credit mismatch.

3.1. Statutory notices were issued and served on the assessee which were duly complied with. Ld. AO also issued notice u/s. 133(6) of the Act to one of the party viz., Birla Corporation Ltd. to examine the issues identified. On verification, Ld. AO noted that as per information in the TRACES, contract receipt of the assessee were Rs.1,78,75,267/-. Further, Ld. AO noticed that contract receipts of Rs.7,31,768/- were not reflected in the TRACES. He thus, worked out total contract receipt of Rs.1,86,07,035/-. Against this, Ld. AO noted that assessee has disclosed contract receipt of Rs.1,72,04,775/- in the return, thus, the difference of the two, amounting to Rs.14,02,259/- was added to the total income as undisclosed contract receipt. Aggrieved, assessee went in appeal before the Ld. CIT(A) who confirmed the addition made by the Ld. AO. Aggrieved, assessee is in appeal before the Tribunal.

4. Before us, Ld. Counsel submitted that there was a reversal of contract receipt amounting to Rs.14,02,259/- by one of the party viz., Birla Corporation Ltd., which has resulted into the mismatch between contract receipts reflected in Form 26AS and the return of the assessee. According to the Ld. Counsel, this amount was reversed by

Birla Corporation Ltd. in their books of account but such impact was not given in Form 26AS due to non-revision of their TDS return. To substantiate the claim made by the Ld. Counsel, additional evidence along with application for admission of the said addition evidence is submitted before the Tribunal vide application dated 09.05.2023 in respect of confirmation from Birla Corporation Ltd. and relevant ledger in their books of account. Ld. Counsel prayed for admission of the additional evidence in terms of Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963 (hereinafter referred to as the "ITAT Rules") and prayed that the matter may be set aside to the file of Ld. AO for verification of the fact from the additional evidence placed on record to allow the claim of the assessee.

5. Taking into consideration rule 29 of the ITAT Rules, submission made by the Ld. Counsel were confronted to the Ld. Sr. DR, who did not object for the same.

6. We have heard the rival contentions and gone through the material placed before us. We find that confirmation letter from Birla Corporation Ltd. along with ledger account from their books of account which demonstrates the reversal of the contract receipts as claimed by the assessee has not been considered by the authorities below. These relevant documentary evidence have been placed before us in the paper book. We find it appropriate to take these additional evidence on record and remit the matter back to the file of Ld. AO for verification of these documents in respect of difference in contract receipts reflected in Form 26AS and that reported in the income-tax return filed by the assessee for which an addition of Rs.14,02,259/- has been made. Ld. AO is directed to verify the details and consider the deletion in respect of the difference for which addition has been made based on the verification. Needless to say that assessee be given

reasonable opportunity of being heard and make any further submission to substantiate her claim. Accordingly, appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 23rdJune, 2023.

Sd/- Sd/-

(Sanjay Garg) (Girish Agrawal)
Judicial Member Accountant Member

Dated: 23rd June, 2023

JD, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:.
3. CIT(A), NFAC, Delhi
4. CIT,
5. DR, ITAT, Kolkata Bench, Kolkata

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata