

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH
(Conducted Through Virtual Court)
Before: Shri Mahavir Prasad, Judicial Member
And Shri Amarjit Singh, Accountant Member

ITA No. 53/Ahd/2019
Assessment Year 2015-16

Magnanimous Infrastructure Pvt. Ltd. H-1109, Titanium City Centre, Prahlad Nagar Road, Satellite, Ahmedabad PAN: AAGCM5750N (Appellant)	Vs	The ITO, Circle-2(1)(2), Ambawadi, Ahmedabad (Respondent)
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Revenue by: Shri R.R. Makwana, Sr. D.R.
Assessee by: Shri S.N. Divatia, A.R.

Date of hearing : 08-09-2021
Date of pronouncement : 15-09-2021

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2015-16, arises from order of the CIT(A)-2, Ahmedabad dated 22-10-2018, in proceedings under section 143(3) of the Income Tax Act, 1961; in short "the Act".

2. The solitary ground of appeal of the assessee is directed against the order of ld. CIT(A)-2 in upholding the disallowance of expenses aggregating to Rs. 1,51,33,359/-.

3. The fact in brief is that return of income declaring nil income and claiming loss of Rs. 1,33,83,216/- was filed on 30th Sep, 2015. The case was subject to scrutiny assessment and notice u/s. 143(2) of the act was issued on 7th April, 2016. During the course of assessment, in spite of issuing various notices u/s. 142(1) of the Act, the assessee has failed to furnish the detail in response to notices issued. Under such circumstances on perusal of form no. 3CD, the Assessing Officer noticed that assessee has declared loss of Rs. 13,19,221/- @ -5.13% as compared to gross profit declared at 28.54% in the previous year. After observing abnormal decrease in gross profits as well as net profit during the year the Assessing Officer noticed that assessee has claimed expenses of Rs. 4,42,69,906/- for the year under consideration as compared to expenses of Rs. 4,71,31,861/- claimed in the preceding assessment year. The Assessing Officer also noticed that there was abnormal increase in the site development expenses of Rs. 3,14,23,086/- claimed in the year under consideration. In view of not producing accounts along with bills and vouchers for verification of expenses, the Assessing Officer has rejected the books of account of the assessee u/s. 145A of the act and after taking average G.P. rate on the basis of last three years, gross profit was computed at 27.64% as under:-

A.Y.	GP Rate declared
2013-14	59.52%
2014-15	28.54%
2015-16	-5.13%
Average GP	27.64%

The Assessing Officer also noticed that assessee has declared revenue from operation at Rs. 4,47,77,700/- for assessment year 2014-15 against which other expenses of Rs. 2,32,14,316/- was claimed in the P & L account. However, during the year under consideration, the assessee has declared revenue from operation at Rs. 2,57,19,408/- against other expenses of Rs. 3,14,23,089/- debited in the P & L account. The relevant summary of such expenses and revenue is as under:-

A.Y.	Revenue	Expenses	% of Expenses against revenue
2014-15	4,47,77,700/-	2,32,14,316/-	51.84
2015-16	2,57,19,408/-	3,14,23,086/-	122.17

After perusal of the aforesaid analysis, the Assessing Officer observed that assessee has claimed expenses at the percentage of 122.17% of the total turnover as compared to rate of such expenses claimed in the preceding assessment year at 51.84%. Consequently, the Assessing Officer proportionately allowed the claim of expenses at 51.84% of the turnover on the basis of last year and remaining expenses of Rs. 1,51,33,359/- was disallowed.

4. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee since the assessee has failed to furnish any evidences in support of the genuineness of expenses by producing bills and vouchers during the course of appellate proceedings.

5. Heard both the sides and perused the material on record. Without reiterating the facts as elaborated in this order, during the course of assessment year, the assessee has failed to furnish supporting bills and vouchers to prove the genuineness of claim of various expenses. Under such circumstances, the Assessing Officer has made analysis of gross profit along with claim of expenditure pertaining to the year under consideration with the preceding assessment year as elaborated above in this order. The assessee has failed to justify the expenditure by submitting bills, vouchers and books of accounts, therefore, after rejecting the books of account u/s. 145(3), the Assessing Officer has made proportionate disallowance of the claim of expenditure on the basis of such expenditure claimed in the preceding year and allowed the expenditure @ 51.84% of the turnover as allowed in the preceding year and made addition of Rs. 1,51,33,359/-. Even during the course of appellate proceedings before the Id. CIT(A), the assessee has failed to produce supporting relevant evidences to prove the genuineness of claim of expenditure. It is also observed that during the course of appellate proceedings before us, the assessee has also not filed any additional evidences in support of its claim of expenditure claimed during the year under consideration. Looking to the above facts and circumstances, it is clear that assessee has unreasonably wasted the time of the lower authorities by not producing the relevant detail in spite of giving a number of opportunities during the course of assessment and appellate proceedings. During the course of appellate proceedings before us, the Id. counsel has vehemently contended that addition has been made unreasonably and requested that the case of the assessee is required to be adjudicated on merit. The Id. counsel agreed to deposit a cost of 20,000/- by paying the challan

before the Assessing Officer for wasting the precious time of the lower authorities because of failing to furnish the requisite details in order to restore the case to the file of the Assessing Officer for deciding on merit. Looking to the above facts and in the interest of justice we restore this case to the file of Assessing Officer for deciding afresh after examination and verification of the supporting detailed evidences and after affording due opportunity to the assessee subject to payment of challan as directed above. Therefore, this ground of appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 15-09-2021

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad : Dated 15/09/2021

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद