

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

ITA No. 2325/Ahd/2018
Assessment Year 2015-16

Surrel Enterprise Pvt. Ltd. 513/B National High way Road Chhatral Ta. Kalol -382729 PAN: AADCS5160K (Appellant)	Vs	The DCIT, Mehsana Circle, Mehsana (Respondent)
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Revenue by: Dr. Shyam Prasad, Sr. D.R.
Assessee by: Ms. Urvashi Shodhan, A.R.

Date of hearing : 07-06-2021
Date of pronouncement : 12-07-2021

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2015-16, arises from order of the CIT(A), Gandhinagar, Ahmedabad dated 08-10-2018, in proceedings under section 143(3) of the Income Tax Act, 1961; in short "the Act".

2. The solitary ground of appeal filed by the assessee is arisen from the order of Id. CIT(A) in confirming the disallowance out of employees' benefit expenses of Rs. 61,06,094/-.

3. The fact in brief is that at the time of assessment, the Assessing Officer noticed that assessee has debited an amount of Rs. 9,00,53,013/- under the head employees' benefit expenses. The employees' benefits expenses were consisted of sales, wages, provident funds, incentive, leave encashment etc. The Assessing Officer observed that claim of employees benefit expenses of Rs. 9,00,53,013/- was at excessive level compared to turnover of Rs. 9,49,43,108/-. On query, the assessee submitted the relevant details with supporting documents. On perusal of the details, the Assessing Officer noticed that the assessee has made payment under the head incentive to the amount of Rs. 1,22,12,187/- The Assessing Officer was of the view that assessee has not furnished details on the basis of which the incentive was worked out. The Assessing Officer observed that it is difficult to believe that the expenditure claimed to have incurred were genuine as a whole, therefore, 50% of the expenditure which comes to Rs. 61,06,094/- was disallowed and added to the total income of the assessee.

4. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee reiterating the facts mentioned by the Assessing Officer.

5. During the course of appellate proceedings before us, at the outset, the Id. counsel submitted that similar issue on identical facts has been adjudicated in the case of the assessee itself by the Co-ordinate Bench of the ITAT Ahmedabad vide ITA No. 1868/Ahd/2017 for assessment year 2013-14 where the issue was decided in favour of the assessee as the Assessing Officer has not rejected the books of account before making such estimated

addition. The Id. Departmental Representative is fair enough not to controvert this undisputed fact that identical issue on similar fact has been adjudicated by the Co-ordinate Bench of the ITAT as referred above.

6. Heard both the sides and perused the material on record. During the course of assessment, the Assessing Officer observed that assessee has not furnished the details regarding basis of making payment under the head incentive to the employees/workers therefore 50% of such expenses were disallowed. The Id. counsel has reported that similar issue on identical fact has been adjudicated in favour of the assessee in the case of the assessee itself pertaining to assessment year 2013-14. With the assistance of Id. representatives we have gone through the decision of the Co-ordinate Bench of the ITAT vide ITA No. 1868/Ahd/2017 dated 11.12.2019. The relevant part of the decision of the ITAT is reproduced as under:-

“8. We have gone through the relevant record and impugned order. Assessee is in the business of conversion of Raw material into finished products on job work basis and for its activities. Assessee has to higher rate labourer from the nearby villages and sometimes from the nearby State. Assessee contended that since 2009 his sales are increasing and in A.Y. 2009-10, it was 88.79% in A.Y. 2010-11, it was 88.94% in the A.Y. 2011-12, it was 91.65%, in the A.Y. 2012-13, it was 91% and in the A.Y. 2013-14, the ratio is 93.21%. Therefore, further stated details of the deduction of provident funds have given to the lower authorities and all the details with regard to names and address as per the provident fund record have been submitted to the lower authorities. With regard to cash payment, assessee stated that most of the labourer are illiterate and they do not have accounts in the banks. Assessee also contended that workers turnover are high and therefore assessee had to pay more bonus as compared to other industrial labour.

9. As we can see, books of account were not rejected by the assessing officer and audit report has been filed by the assessee but no ambiguity was noticed in the audit report by the revenue. As can see from the submission filed before the lower authorities that turnover is every year is increasing. Therefore, it is employed that wages and salary will also increase. And in our considered opinion, same appears to be quite justifiable and genuine. Assessee regularly deducting EPF, ESIC from wages and regularly deposited the same with concerned authority and a details submission with regard to PPF number have been filed before the lower authorities.

10. In our considered opinion, after seeing the nature of job of the assessee which involves most of the unskilled labourers on cash payment made to them cannot be ruled out. Therefore, giving benefit of doubt to the assessee, we allow the appeal of the assessee.”

It is clear from the decision of the Co-ordinate Bench of the ITAT Ahmedabad in the case of assessee itself as reported above that identical issue has been adjudicated on similar fact in favour of the assessee after taking into consideration the nature of payment and not rejecting books of accounts by Assessing Officer. Respectfully following the decision of ITAT Ahmedabad supra this appeal of the assessee on identical facts and similar issue is allowed. Accordingly, this appeal of the assessee is allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 12-07-2021

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad : Dated 12/07/2021

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.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद