

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT**

[Conducted through E-Court at Ahmedabad]

**(BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 134/RJT/2016
(Assessment Year: 2007-08)**

M/s. Silver Salt Industries 102, Chetan Chambers, Gandhidham (Appellant)	V/S	Income Tax Officer, Ward- 2, Gandhidham (Respondent)
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PAN: AAACW1838K

**Appellant by : Shri Chetan Agarwal, A.R.
Respondent by : Ms. Usha N. Shrote, Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 31 -05-2017

Date of Pronouncement : 05 -06-2017

PER N.K. BILLAIYA, ACCOUNTANT MEMBER

1. This appeal by the Assessee is preferred against the order of the Ld. CIT(A)-3, Rajkot dated 08.01.2016 pertaining to A.Y. 2007-08.

2. The assessee has raised two substantive grounds of appeal. At the very outset, the Id. counsel for the assessee stated that he is not pressing ground no. 2 and, therefore, the same is dismissed as not pressed. The only ground that survives relates to the disallowance of Rs. 9,47,777/- made by the A.O. u/s. 40(a)(ia) of the Act.
3. The assessee is in the business of manufacturing and trading in salt. During the course of the scrutiny assessment proceedings, the A.O. noticed that the assessee has made payment to the following persons exceeding Rs. 20,000/aggregating Rs. 50,000/- for work get done:-
 - (a) Hire charges loading and loose for various trucks Rs. 8,82,519/-
 - (b) Labour charges to Netaram Rs. 65,285/-
4. The assessee was asked to show cause why the above payments should not be disallowed u/s. 40(a)(ia) of the Act as no TDS has been made by the assessee on the impugned payments. On receiving no plausible reply, the A.O. disallowed the afore-stated expenses totaling to Rs. 9,47,777/- u/s. 40(a)(ia) of the Act.
5. Assessee carried the matter before the Id. CIT(A) but without any success.
6. Before us, the Id. counsel for the assessee drew our attention to the details of the Hire charges paid to truck and pointed out that none of the payment exceeded Rs. 20,000/- and in aggregate none of the payee was paid Rs. 50,000/-. Therefore, provisions of section 194C of the Act do not apply on

the facts. Insofar as the payment of labour charges to Netaram is concerned, the Id. counsel stated that there was no contract with Netaram who was doing labour work on day to day basis as and when his work was required. Therefore, there was no requirement for deducting the tax at source.

7. Per contra, the Id. D.R. strongly supported the findings of the A.O. and prayed for upholding the order of the Id. CIT(A).

8. We have carefully considered the orders of the authorities below. We have also given a thoughtful consideration to the details of the Hire charges exhibited at pages 3 to 6 of the paper book. A perusal of the same shows that none of the payment exceeded Rs. 20,000/- nor the aggregate payment to the payees exceeded Rs. 50,000/-. Except for the aggregate payment of Rs. 88,510/- paid to truck no. 4705 which is at page 5 serial no. 22 of the paper book. Barring this amount, all other payments are outside the purview of the provisions of section 194C of the Act. We, therefore, modify the findings of the Id. CIT(A) and direct the A.O. to make addition of Rs. 88,510/- only in respect of Hire charges of Rs. 8,82,519/-. The assessee gets a relief of Rs. 7,94,369/- on this account. Insofar as the labour charges amounting to Rs. 65,285/- paid to Netaram is concerned, it is true that Netaram was engaged for the labour work on daily wages basis as and when his services were required. Therefore, we do not find any reason why the provisions of section 194C should be applied on such payment. We, accordingly, direct the A.O. to delete the addition of Rs. 65,285/-.

9. Appeal filed by the Assessee is partly allowed.

Order pronounced in Open Court on 05 - 06 - 2017

Sd/-

(MHAVIR PRASAD)
JUDICIAL MEMBER True Copy
Ahmedabad: Dated: 05/06/2017

Sd/-

(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT, RAJKOT