



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

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No. 133/CTK/2017
Assessment Year : 2012-2013

Anil Contractors Pvt Ltd., Plot No.N-1/93, IRC Village, Nayapali, Bhubaneswar.	Vs.	DCIT, Corporate Circle 1(1), Bhubaneswar.
PAN/GIR No.AACCA 6611 N		
(Appellant)	..	(Respondent)

Assessee by : S/Shri P.S.Panda/K.K.Agrawalla, AR
Revenue by : Shri Piyush Kolhe, CIT DR

Date of Hearing : 28 /02/ 2018
Date of Pronouncement : 5 /03/ 2018

ORDER

Per Pavan Kumar Gadale, JM

This is an appeal filed by the assessee against the order of the CIT(A)-1, Bhubaneswar dated 15.11.2016 for the assessment year 2012-2013.

2. The appeal filed by the assessee is delayed by 19 days. The assessee has filed condonation petition dated 26.2.2018 alongwith affidavit explaining the reasonable cause for not filing the appeal within the stipulated date. Before us, Id A.R. reiterated the explanation as stated in the condonation petition. We, on perusal of the condonation petition and after hearing the parties, are convinced that the assessee was prevented by sufficient cause in filing the appeal before the Tribunal.



Hence, we condone the delay and proceed to dispose of the appeal after hearing both the sides.

3. At the outset, Id A.R. submitted that he is not pressing Ground No.4 of appeal but made endorsement to the grounds of appeal filed before the Tribunal. Therefore, we dismiss Ground No.4 of appeal as not pressed.

4. Ground No.1 of appeal is general in nature and hence, requires no separate adjudication.

5. Ground No.2 of appeal relates to confirming the addition of Rs.1,09,28,643/- being 20% claim of total wages.

6. Ground No.3 of appeal relates to confirming the addition of Rs.4,68,75,863/- on account of purchase expenses. Both the grounds are taken together for our consideration.

7. The facts in brief are that the assessee is deriving income from contract business. During the course of assessment proceedings, the Assessing Officer found from the P&L account that the assessee had debited an amount of Rs.5,46,43,213/- on account of wages expenses. The Assessing Officer asked the assessee to produce the ledger account of such expenditure. From the ledger copy filed by the assessee, the Assessing Officer found that all the expenses on account of wages were made in petty cash. To verify the genuineness of the expenses, the Assessing Officer asked the assessee to produce the register in respect of labour payments and original bills/vouchers for other expenses. The



assessee did not produce the same. For want of documentary evidences in support of the above substantial expenses incurred on wages, the Assessing Officer disallowed a sum of Rs.1,09,28,643/- being 20% of the total claim of Rs.5,46,43,213/-.

Similarly, the Assessing Officer found from the P&L account that the assessee had debited an amount of Rs.23,43,79,317/- on account of purchase expenses. The Assessing Officer asked the assessee to produce the ledger account of such expenditure. From the ledger copy filed by the assessee, the Assessing Officer found that all the expenses on account of purchases were made in petty cash. To verify the genuineness of such expenses, the Assessing Officer asked the assessee to produce the ledger copy along with original bills/vouchers. The assessee failed to do so. For want of documentary evidences in support of the huge expenses claimed as purchase expenses, the Assessing Officer deemed it proper to disallow Rs.4,68,75,863/- being 20% of the total purchases of Rs.23,43,79,317/-.

8. On appeal, the CIT(A) confirmed the disallowance made under the heads "wages expenses" and purchase expenses" observing that no evidence was also produced before him to suggest that the wage expenses were actually incurred for the purpose of business.

9. Before us, Id A.R. of the assessee submitted that the assessee is in contract business and the wages were to be paid in cash. Ld A.R. submitted that the only ground for making the adhoc disallowance that the assessee has claimed huge expenses aggregating to



Rs.5,46,43,213/-under the head" wage expenses" and Rs.4,68,75,863/- "purchase expenses" and the Assessing Officer has not identified particular claim of expenses but made adhoc disallowance.

10. Ld D.R .supported the order of the lower authorities.

11. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. We find that the Assessing Officer has made adhoc disallowance of 20% of total claim on the ground that the assessee did not produce the original bills and vouchers and on first appeal, the CIT(A) confirmed the same. In the contract business, the assessee was compelled to make the cash to the labourers at the work sites, which are mainly in the remote areas. Ld A.R. submitted that for carrying out the work, the assessee made payments at various places for laying the roads. We also find that the Assessing Officer has not doubted the genuineness of expenditure under both the heads of expenditure but restricted the disallowance for want of original bills and vouchers. Ld A.R. submitted a chart for the earlier four financial years i.e. from 2008-09 to 2011-12, wherein, the percentage of claim of wages has been consistently maintained. In the said financial year, the assessee has disclosed higher turnover and made mechanism of operation work and made investment in fixed assets and claimed depreciation, which is not disputed by the Assessing Officer. Further, the wage claim of the assessee on comparison with has worked out to less than 1/3rd from the earlier assessment years. We find that the Assessing Officer has done



verification based on the available information and facts and as the assessee could not furnish complete details, the Assessing Officer made addition on estimate basis. We, considering the factual aspects and percentage of wages paid on the turnover from the earlier years, the disallowance made by the Assessing Officer is slightly on higher side and the Assessing Officer has not doubted the genuineness of the wages paid to labours and purchase of materials and accepts the facts of incurring the expenditure in the course of business operation. We also observe that the assessee should have maintained proper bills and vouchers for the works and cannot submit the information on piece-meal. Therefore, we are of the considered view to meet the ends of justice, the estimation made by the Assessing Officer is restricted to 10% of total claim made by the assessee under wages and purchase and we modify the order of the CIT(A) Accordingly.

13. In the result, appeal filed by the assessee is partly allowed.

Order pronounced on 5 /03/2018.

Sd/-

(N.S Saini)
ACCOUNTANT MEMBER

sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

Cuttack; Dated 5 /03/2018
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : Anil Contractors Pvt Ltd.,
Plot No.N-1/93, IRC Village, Nayapali,
Bhubaneswar
2. The Respondent. DCIT, Corporate Circle
1(1), Bhubaneswar.
3. The CIT(A)-1, Bhubaneswar
4. Pr.CIT-1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack