

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.3474/Del/2023
Assessment Year: 2018-19

ROOPA Infrastructures Limited . 19GC, 102 Gali No.19 Molarband Extn, New Delhi 110044 PAN No. AAFCR1445N	RANA, Private	Vs.	DCIT Circle -19 (1) Delhi
(APPELLANT)			(RESPONDENT)

Appellant by	Sh. Pramod Jain, CA
Respondent by	Ms. Harpreet Kaur Hansra, Sr DR

Date of hearing:	16/04/2025
Date of Pronouncement:	22 /04/2025

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal is preferred by the assessee is against the order 03-11-2023 of the National Faceless Appeal Centre Delhi / Commissioner of Income Tax (Appeal)[hereinafter referred to as “NFAC)"] arising out of the order 04-05-2021 passed

Assessing Officer under section 143(3) r.w.s. 144B of the Income Tax Act, 1961 [herein after, the Act] for the assessment year 2018-19.

2. The assessee has raised the following grounds in appeal:

1. *That the Ld. national Faceless Appeal Centre [Ld. CIT (A) erred on facts and in law in sustaining the arbitrary and incorrect addition made by the Additional/ Joint/ Deputy/ Assistant Commissioner of Income Tax Officer National e- Assessment, Delhi [Ld. AO]*

2. *The Ld. CIT(A)/ Ld.AO erred on fact and in law in disallowing expenses under and section 37 of the income tax act 1961 ("the ACT") amounting to INR 49,48,880/- incorrectly alleging discrepancy in invoice furnished by the Appellant.*

2.1 *The Ld. CIT(A)/ Ld.AO failed to appreciate that the invoices completely matched with the ledgers furnished by the appellant and thus there was no*

discrepancy as alleged by the Ld. CIT(A)/ Ld.AO. Accordingly, the disallowance at best could be termed as arbitrary and ad hoc in nature.

2.2 The Ld. CIT(A)/ Ld.AO erred on facts and in law holding that the business expenses were not incurred “wholly and exclusively” for the business without bringing out any cogent reason to doubt the genuineness of the invoice furnished by the Appellant. The reasons pointed out the Ld. CIT(A)/ AO were based on incorrect appreciation of evidences furnished by the Appellant.

2.3 The Ld. CIT(A)/ Ld.AO erred on fact and in law in not appreciating that undisputedly all the payments were made by the Appellant through banking channels, were subject to deduction of taxes at sources (TDS) and were evidenced by confirming invoice issued by the vendors.

2.4 The Ld. CIT(A)/ Ld.AO erred on fact and in law in making disallowances without affording any effective opportunity to the Appellant to rebut the alleged discrepancies in the invoices, there by violating principles of natural justice.

3. Without prejudice, the Ld. CIT(A)/ Ld.AO grossly erred on fact and in law in not restricting the disallowance under section 37 of the Act to the amount of incorrect alleged amount of discrepancy.

4. The Ld. CIT(A)/ Ld.AO erred on fact and in law in initiating penalty under section 270 A of the Act.

5. The Ld. CIT(A)/ Ld.AO erred on fact and in law in charging interest under the provision of the Act.

6. The Appellant prays leave to add, modify or withdraw any ground of appeal before or during the appellate proceedings.

3. The brief facts of the case are that the company is engaged in the business of construction, maintenance, improvement and development of civil and constructional works related to buildings, godowns, parks, hotels, bridges etc. The assessee filed its return of income on 30-09-2019 declaring total income at Rs. 60,340/-. The case of the assessee company was selected for complete scrutiny under the E-assessment on the following issues:

(i) Expenses Relating to entities not Registered under GST Notices u/s 143(2) of the Act was issued. Again, notices u/s 142(1) of the Act was issued. In the compliance of the notice the assessee company filed the reply. The Assessing, officer has completed the assessment by making the addition of Rs. 49,48,880/- . Aggrieved the order of the A.O. the assessee has filed the appeal before the Ld. NFAC/ CIT(A) who vide his order dated 03-11-2023 relying the decision of the Hon'ble Kerala High Court in the case of Ram Bahadur

limited vs. CIT dismissed the appeal against which the assessee is in appeal before the Tribunal.

4. The Ld. AR of the assessee has submitted that expenses cannot be disallowed u/s 37(1) of the Act merely on the basis that the parties are not registered under GST. He also submitted that Income Tax Act 1961, does not require expenses to be incurred only on GST registered parties to be allowable u/s 37(1) of the Act. He further submitted that the assessee filed the supportive evidence to prove that the expensive are genuine. The department has power to disallow the expenses if that proved bogus or non-genuine. The assessee has made the payments to the subcontractors through banking channels. The Ld. CIT(A) and AO never doubted the genuineness of the expenses incurred by the assessee. The assessee has made the payment after deducting the TDS, which shows that the transactions were genuine. He also submitted that expenses cannot be disallowed on the sole ground that parties were not registered under GST.

5. The Ld. Sr DR supported the orders of the lower authorities.
6. We have heard the rival submission made by the respective parties. We have also perused the relevant materials available on record.
7. The ld. AR of the assessee as has relied on the following decisions:

(i) CIT Vs. SVE engineers, appeal No. 350/2016 Hon'ble Madras High Court order dated 07-09-2016

(ii) CIT vs Nangalia Fabric Private Ltd (2014) 220 Taxmann. 17 in this case Hon'ble Gujarat High Court held that in case where purchases were supported by bills entries made in the books of accounts and payment was made by cheques, said purchases could not be held bogus purchase.

(iii) CIT vs Smt. Anju Jindal [2016] 387 ITR 418 (Punjab & Haryana)

(iv) Ramesh Kumar & Co, Ville Parle, vs. The ACIT.

8. In the present case in hand the assessee has submitted the expenses bills before the Ld. CIT(A) and AO. The expense bills

payments were made through the banking channels after duly deducting the TDS. The assessing officer was not justified to disallow the expenses on the sole ground that the subcontracts were not registered under GST without considering the fact that there is no requirement under the Act that expenses must be incurred only with GST registered parties. The assessee has proved the expenses were genuine by submitting the bill invoices. The additions have been made merely on the basis that the parties were not registered under GST but at the same time it cannot be said that expenses are bogus. We therefore, set aside the findings of the Ld. NFAC/ CIT(A) and direct the AO to delete the addition.

9. In the result the appeal of the assessee is allowed.

Order pronounced in the open court on 22.04.2025.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Date:22.04.2025

Neha, Sr. PS

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER