

**Before Dr. BRR Kumar, Vice President
And Ms. Suchitra Kamble, Judicial Member**

Chamunda Electrical Pvt. Ltd., Palanpur PAN: AAFCC3244E (Appellant)	Vs	The ACIT, Circle Palanpur, Palanpur (Respondent)
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Date of hearing : 04-09-2025
Date of pronouncement : 04-11-2025

This is an appeal filed against the order dated 30-08-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

“1. The Ld.CIT(A) erred in law as well as on fact in upholding an addition of Rs. 1,20,000 made by ld.AO being disallowance of ROC expense for increase in share capital.

2. The Ld.CIT(A) erred in law as well as on fact in upholding an addition of Rs. 1,21,15,000 made ld.AO being disallowance of subcontract expenses.

3. The Ld.CIT(A) erred in law as well as on fact in upholding an addition of Rs. 15,33,536 made ld.AO being disallowance u/s.40(a)(ia).”

3. The assessee filed return of income for assessment year 2017-18 on 19-09-2017 declaring total income of Rs. 42,66,000/-. During the year under consideration, the assessee was engaged in the business of GETCO contractor. The case of the assessee was selected for complete scrutiny and notice u/s. 143(2) of the Act was issued on 13-08-2018 which was duly served upon the assessee. Thereafter, notice u/s. 142(1) along with questionnaires were issued on various dates. The Assessing Officer observed that during the year, the assessee company increased its various share capital from Rs. 1,00,00,000/- to Rs. 1,40,00,000/- and debited ROC expenses of Rs. 1,50,000/- to profit and loss account. In response to the notice u/s. 142(1) of the Act, the assessee vide letter dated 29-11-2019 submitted that total share capital was increased by 40,00,000/- and expenses relating to this is Rs. 1,50,000/- (total Rs. 1,50,600/- is government fee and Rs. 25,000/- is ROC consultancy fee). Since the assessee has not furnished any explanation regarding capital nature of these expenses, the Assessing Officer made disallowance of Rs. 1,20,000/-. Further, after perusal of the profit and loss account of the assessee, the Assessing Officer observed that the said profit and loss account showed debit of Rs. 11,63,17,259/- on account of cost of material consumed which included contract expenses of Rs. 2,52,26,786/- and site staff salary of Rs. 9,10,90,773/-. After taking cognizance of the assessee's submissions and details, the Assessing Officer issued notice u/s. 133(6) to the four persons and submissions made these four persons are incorporated on page 7 of the assessment order. After going through the same,

the Assessing Officer held that the assessee could not substantiate its claim of expenses in name of four persons in total amounting to Rs. 1,21,15,000/- and disallowed the same. The Assessing Officer further after perusal of audit report observed that during the year, the assessee made total contract payment of Rs. 2,52,26,786/- out of which TDS has been deducted of Rs. 80 lacs only. Thus, after taking assessee's reply, we stated that on account of non-deduction of TDS in Chamunda Construction Company, the said payment is made to the Government Origination Pvt. Ltd. (ERDA) in respect of test report and therefore TDS was not deducted. The Assessing Officer observed that this explanation was not proper and therefore 30% of Rs. 51,11,786/- that of remaining amount of contract payments which comes out to be Rs. 15,33,536/- was disallowed as per the provisions of section 40a(ia).

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. Ground no. 1 is not pressed hence dismissed.

6. As regards ground no. 2 relating to upholding an addition of Rs. 1,21,15,000/- which was disallowance of sub-contract expenses, the ld. A.R. submitted that the assessee has given all the details and in fact all the four persons has responded to the notice u/s. 133(6) which was totally ignored by the Assessing Officer. The ld. D.R. contended that it was payment to the relatives.

7. We have heard both the parties and perused all the relevant material available on record. From the perusal of the chart which is reproduced at page no. 6, it was clearly the case that out of four, Zeal Patel was having a relation being one director, his father one his mother and two are grand father and mother but not such relation with the other three persons including the entity M/s. Chamunda Construction Company. Thus, the contention of the ld. A.R. does not appear to be genuine. Before the CIT(A), the assessee has given the details but it was insufficient details and therefore the facts mentioned on page 8 of the assessment order by the Assessing Officer are relevant. Thus, the addition made by the Assessing Officer is just and proper hence ground no. 2 is dismissed.

8. As regards ground no. 3 relating to upholding an addition of Rs. 15,33,536/- being the disallowance u/s. 40a(ia), the ld. A.R. submitted that 30% of all ledger purchase of material has been given the details.

9. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

10. We have heard both the parties and perused all the relevant material available on record. The assessee has not given any details in respect of the material purchased and from pages no. 122 of the paper book, the same was not before the Assessing Officer as well as before the CIT(A). Therefore, this needs verification. Thus, this issue is remanded back to the file of Assessing Officer for proper verification and adjudication of the issues. Needless to say, the assessee be given opportunity

of hearing by following principles of natural justice. Thus, ground no. 3 is partly allowed for statistical purpose.

11. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 04-11-2025

Sd/-
(Dr. BRR Kumar)
Vice President

Sd/-
(Suchitra Kamble)
Judicial Member

Ahmedabad : Dated 04/11/2025

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