

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “ C ” BENCH: BANGALORE

**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA. No.863/Bang/2019
(Assessment Year: 2015-16)

M/s. Unimoni Financial Services Limited, (Formerly UAE Exchange & Financial Services Ltd.) No.12 & 13, Ground Floor, North Block, Manipal Centre, Dickenson Road, Bangalore-560 042 PAN AAACU 2040F	Vs.	Dy. Commissioner of Income Tax, Circle &(1)(1), Bangalore.
(Appellant)		(Respondent)

Assessee By: Shri Rahil S Shah, C.A.
Revenue By: Shri M. Rajasekhar, Addl. CIT (D.R)

Date of Hearing :	17.07.2019
Date of Pronouncement :	09.08.2019

ORDER

PER SHRI PAVAN KUMAR GADALE, JM :

The assessee has filed an appeal against the order of learned Commissioner of Income Tax (Appeals)-7, Bangalore passed under Section 143(3) and 250 of the Income Tax Act, 1961.

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

“1. The learned CIT (Appeals) grievously erred by contending that the business of banking is a new and distinct business, without appreciating that the same is merely furtherance of the existing business of NBFC of your appellant, and thus sustained the disallowance made by the learned A.O. of professional charges of Rs.9,42,700 paid to consultants for filing an application to RBI to set up a small finance bank / commence commercial banking business as a capital expenditure, though no such license was granted to your appellant.

2. For these and other grounds that may be adduced at the time of hearing, the order passed by the learned A.O and as sustained by the learned CIT (Appeals) be squashed to the extent appealed against.”

3. The Brief facts of the case are that the assessee is engaged in the business of money lending viz. gold loans, vehicle loans, personal loans and mortgage / property loans and providing services of inward money transfer, money changing, travel and ticketing. The assessee filed the Return of Income for the Assessment Year 2014-15 on 28.11.2015 with total income of Rs.27,49,49,230. Subsequently, the case was selected for scrutiny and Notices were issued under Section 143(2) and 142(1) of the Act. In compliance, the learned Authorised Representative from time to time and case was discussed. The Assessing Officer on perusal of the financial statements found that the assessee has claimed an amount of Rs.10,42,582 as expenditure towards Banking License Fees and called for the explanations. The assessee submitted that the amount debited to profit and loss account under the head ‘Banking License Fees & Charges’ pertains to the application made to the Reserve Bank of India (RBI) to set up small finance bank and fees contained payment made to Consultants and

expenses related documents, food, travelling and other miscellaneous expenditure and company also debited fees paid to the Consultant. Whereas the Assessing Officer was not satisfied with the nature of the claim and could not verify the details. Hence the Assessing Officer has disallowed the assessee's claim treating as a capital expenditure and with other additions assessed the total income of Rs.27,78,10,132 and passed the order under Section 143(3) of the Act dt.6.12.2017. Aggrieved by the order, the assessee company has filed an appeal with the CIT(Appeals). Whereas the CIT(Appeals) has confirmed the action of the Assessing Officer and dismissed the assessee's appeal. Aggrieved by the order of CIT(Appeals), the assessee filed an appeal with the Tribunal.

4. At the time of hearing, the Id. AR submitted that the CIT(Appeals) has erred in confirming the addition without appreciating facts that the banking business is a new, distinct and different business from the business of NBFC and payment made to Consultant was for setting up the small finance company. Fees was also paid for obtaining license from RBI and the assessee has deducted TDS on consultant payments and relied on the judicial decisions supporting the claim and has to be allowed as business expenditure and prayed for allowing the appeal. Whereas the learned Departmental Representative supported the orders of CIT(Appeals).

5. We heard the rival contentions and perused the material on record. Prima facie, the sole matrix of dispute is in respect of capitalization of the expenditure which was debited by the assessee under the head 'Banking Licence Fees'. The contention of the learned Authorised Representative that this is Business expenditure incurred

by the assessee company to file an application with RBI to start business of banking as the assessee company is a NBFC and the nature of expenditure includes payment to consultant, food, travelling and other expenses. When a query was raised Id. AR on the status of license, explanations were not satisfactory. We, on perusal of the assessment order find that the assessee could not provide the documentary evidence in the assessment proceedings. We found the assessee is a NBFC and in process of expanding business made an application to RBI for Banking Licence and the Id. AR demonstrated the nature of expenditure in Paper Book pages 96 to 100. But the fact remains that supporting evidence was not verified by the Assessing Officer. Considering the facts, circumstances and documentary evidence filed in the hearing, we consider it proper to restore the disputed issue to the file of the Assessing Officer for limited purpose for verification and examination of evidence in support of claim and the assessee should be provided with adequate opportunity of hearing and the assessee shall co-operate in submitting the details for early disposal of case and allow the grounds of appeal for statistical purposes.

6. In the result, the assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 9th Aug., 2019.

Sd/-

Sd/-

(A.K. GARODIA)
ACCOUNTANT MEMBER

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Dated: 09.08.2019.

*Reddy GP

Copy to

1. The appellant
2. The Respondent
3. CIT (A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore