

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI D. KARUNAKARA RAO, AM AND
SHRI S. S. VISWANETHRA RAVI, JM

आयकर अपील सं. / ITA No.554/PUN/2017
निर्धारण वर्ष / Assessment Year : 2012-13

Akruti Jay Developers,
S.No.45, Akruiti Country Woods,
Off. Katrej Kondhwa Road,
Tilekar Nagar, Kondhwa,
Pune-411048.

PAN : AAFFJ0932R

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-14(3),
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri R. G. Nahar
Revenue by : Shri Abdhesh Kumar Jha

सुनवाई की तारीख / Date of Hearing : 21.01.2020
घोषणा की तारीख / Date of Pronouncement : 22.01.2020

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

This appeal filed by the assessee is against the order of the CIT(A)-7, Pune dated 01.12.2016 for the assessment year 2012-13.

2. The grounds raised by the assessee are as under :-

"Being aggrieved by the Appeal Order of the Learned Commissioner of Income Tax (Appeals) - 7, Pune (Hereinafter referred to as the "CIT(A)-7") with regards the Appeal order u/s 143(3) of the Act of the Learned Income Tax Officer, Ward 14(3), Pune (hereinafter referred to as the "LAO"), this appeal petition is submitted on the following grounds: -

1. *On the facts and circumstances of the case and in law, the Learned CIT(A)-7 has erred in confirming ad-hoc addition / disallowance of **5% of expenses of Rs.6,86,35,343/-, amounting to Rs. 34,31,767/-.***

2. *The order under appeal is not only bad in law and invalid, but also against the natural law of equity and justice.*

3. *That the appellant reserves its rights to amend, alter or raise any other additional grounds of appeal before or during the course of appellate proceedings.”*

3. Briefly stated the relevant facts include that the assessee is engaged in the business of builders and developers and undertook the construction work of residential project at Kondhwa area and other places. The assessee filed the return of income declaring loss of Rs.3,62,52,846/-. The assessee reflected the revenue of Rs.11.24 crores (rounded up) and debited the expenses of Rs.15.71 crores (rounded up) for the year under consideration. At the end of the assessment, the Assessing Officer made various additions and reduced the loss of Rs.4.52 crores (rounded up) to positive income of Rs.1,16,20,652/-.

4. Before us, at the outset, mentioning to the details of various additions, the Id. Counsel for the assessee brought our attention to the single addition of Rs.34,31,767/- (para 7 of the assessment order). The relevant facts relating to this addition include that the Assessing Officer, noted that the assessee claimed “other expenses” amounting to Rs.6,86,35,343/- (Schedule 19 of the Financial Statement). On finding that the assessee failed to furnish the evidences in support of the said claim of the “other expenses”, the Assessing Officer proceeded to disallow 5% of the same on an ad-hoc basis. The same is added to the returned income of the assessee. The said addition was duly approved by the CIT(A) after considering the written submission filed by the assessee before the CIT(A).

5. On hearing both the sides, we find that the assessee is a lock making company and submission of details is not upto the mark. As seen from the contents of para 5 to 5.8 of the order of the CIT(A), we find the adjudication by the CIT(A) is fair and reasonable. It is an admitted position that the basic details are filed by the assessee and however, the evidences are not furnished

in support of the same. In fact, the Bench raised certain questions about the details of this “other expenses” and the assessee could not furnish the same instantly. Therefore, we find this is a case where the assessee failed to discharge the onus. Further, we find that the orders of the Assessing Officer/CIT(A) are deficient on why ad-hoc 5%. Therefore, we are of the opinion that, in place of 5% of the ‘other expenses’, the ad-hoc addition of Rs.5,00,000/- should meet the both ends of justice. Accordingly, we modify the orders of the Assessing Officer/CIT(A) on this addition. Accordingly, the Assessing Officer is ordered. Thus, the grounds raised by the assessee are partly allowed.

6. In the result, the appeal of the assessee is partly allowed.

Order pronounced on this 22nd day of January, 2020.

Sd/-

(S. S. VISWANETHRA RAVI)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(D. KARUNAKARA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 22nd January, 2020.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-7, Pune.
4. The Pr. CIT-6, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “ए” बेंच,
पुणे / DR, ITAT, “A” Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.