



ITA No.241/Mum/2017
Bliss Commercial P. Ltd.
Assessment Year :2012-13

आयकर अपीलीय अधिकरण “बी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.241/Mum/2017
(निर्धारण वर्ष / Assessment Year: 2012-13)

Bliss Commercial Pvt. Ltd. 401, Jhulelal, 16 th Road Khar-West Mumbai-400 052.	बनाम/ Vs.	DCIT-12(1)(2) Aaykar Bhavan Mumbai-400 020.
PAN: AABCB-4598-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Rajiv Khandelwal-Ld. AR
Revenue by	:	Ms. Kavita P. Kaushik -Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	29/09/2020
घोषणा की तारीख / Date of Pronouncement	:	29/09/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year [AY] 2012-13 contest the order of the Ld. Commissioner of Income Tax (Appeals)-20, Mumbai, [CIT(A)], *Appeal No. CIT(A)-20/DCIT.12(1)(2)/IT-179/2014-15* dated 23/09/2016 *qua* confirmation of disallowance of certain expenses for Rs.10.20 Lacs. The assessment for impugned AY was framed by *Ld. Deputy Commissioner of Income Tax-Circle 12(1)(2), Mumbai [AO] u/s*



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143(3) of the Income Tax Act, 1961 on 26/02/2015 wherein the loss of the assessee has been determined at Rs.122.56 Lacs after certain disallowances / adjustments as against returned loss of Rs.133.10 Lacs *e-filed* by the assessee on 27/09/2012.

2. During assessment proceedings, it transpired that the assessee earned meagre interest & dividend income aggregating to Rs.2.25 Lacs but claimed expenditure of Rs.121.07 Lacs which after taking into account depreciation claim further increased to Rs.135.35 Lacs. The assessee, while filing the details of expenditure, submitted that the expenditure was to keep the plant of the company alive and to keep it in saleable condition. The Ld. AO, after considering the same, opined that expenses other than rent, depreciation and interest, would not be allowable in the absence of any business activity. These other expenses were in the nature of insurance, repairs & maintenance, misc. expenses, conveyance, payment to auditors, legal & professional charges, directors' remuneration, preliminary expenses written off, telephone, printing stationery and bank charges etc. Therefore, the same were disallowed in the absence of any business activity. The assessee being *resident corporate entity* was stated to be engaged in *manufacturing of fabrics on contract basis*.

3. Aggrieved, the assessee agitated the same before Ld. CIT (A) vide impugned order dated 23/09/2016 wherein Ld. CIT(A), after due consideration of factual matrix, confirmed the stand of Ld. AO by observing as under: -

5.3 I have gone through the assessment order and the submissions made in thus regards. It is seen that during the course of assessment proceedings, the A.O. on perusal of the books of accounts observed that the assessee had not carried out



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*any business activity during the year. It was noticed by the A.O. from the Profit & Loss Account that during the year, the assessee had generated merely a sum of Rs. 75,773/- as dividend and Rs.1,49,740/- as and by way of interest income on bank deposits and after claiming various expenses totaling to Rs.1,21,07,228/-, the assessee had declared net loss of Rs.1,18,81,715/-. In the computation of total income, the assessee had added depreciation as per Companies Act at Rs.47,08,587/- and claimed depreciation as per I.T. Act of Rs.61,36,991/-. Thus, considering the Profit & Loss Account and Computation of total income, and since there was no business activity during the impugned year the A.O. had disallowed and amount of Rs.10,20,558/- out of the total claim of expenses. It is noted that the A.O. has examined the details of expenses and allowed a substantial portion of expenses. The balance of Rs.10,20,558/- was disallowed as the expenses debited to Profit & Loss Account were found to be excessive and not connected to the business activity of the assessee. During appellate stage also the assessee has failed to establish that the expenses claimed were allowable and incurred wholly and exclusive for the purpose of business of assessee. Having regard to the facts of the case the disallowance of expenses of Rs.10,20,558/- made by the A.O is found to be in order and is upheld. Accordingly, this ground of appeal is **dismissed**.*

Aggrieved, the assessee is in further appeal before us.

4. The Ld. AR, Shri Rajeev Khandelwal, advanced arguments to submit that allowance of legitimate business expenditure would not be dependent upon earnings of income by the assessee. Our attention has been drawn to the fact that majority of the expenditure was already allowed by Ld. AO and there was no reason for disallowance of remaining expenditure. The Ld. DR, Ms. Kavita Kaushik, asserted that the assessee failed to demonstrate that the expenditure was incurred for business purposes and the expenditure would not be allowable in the absence of any business activity.

5. Upon careful consideration of factual matrix as enumerated hereinabove, it is quite evident that majority of expenditure as claimed by the assessee has been allowed by Ld. AO himself. The only reasoning adduced to make the partial disallowance was that no business activity was being carried out by the assessee. However, the business had not



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discontinued which is evident from the fact that depreciation allowance has already been granted to the assessee. No doubts have been raised by Ld. AO as to the genuineness of the expenditure. The allowance of legitimate business expenditure would not be dependent upon earning of income by the assessee. Therefore, there would be no justification for disallowance of remaining expenditure. Consequently, we are inclined to delete the disallowance. We order so.

6. The appeal stands allowed.

Order pronounced on 29th September, 2020.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / **Vice President**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 29/09/2020
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.