

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'SMC-A' BENCH : Hyderabad**

(Through Video Conference)

Before Smt. P. Madhavi Devi, Judicial Member

**ITA No. 1264/Hyd./2019
Assessment Year: 2013-14**

M/s Narne Estates Private Limited vs. ITO, Ward 16 (2)
Hyderabad Hyderabad

PAN: AAACN4669F

(Appellant)

(Respondent)

For Assessee: Sh. H. Srinivasulu, Adv.
For Revenue: Sh. Rohit Majumdar, D.R.

Date of Hearing : 03/12/2020
Date of Pronouncement : 03/12/2020

ORDER

This is assessee's appeal filed against the order of CIT(A)-4, Hyderabad dated 31.05.2019 relating to A.Y. 2013-14.

This appeal was taken up for hearing through Video Conference on 03.12.2020 and both the parties were heard.

2. At the outset, it is seen that there is a delay of 04 days in filing of this appeal before the Tribunal and the assessee has stated that the delay is due to the fact that the Chairman and the Managing Director of the Company was not keeping good health during the relevant period and was undergoing medical treatment due to which he could not sign the appeal papers till 09.08.2019. In support of his contentions, the assessee has also annexed Medical Certificate issued by Yashoda Hospitals. Taking the same into consideration, the delay of 04 days in filing the appeal is condoned and the appeal is adjudicated as under.

3. Brief facts of the case are that the assessee company, engaged in the business of real estate, filed its e-return of income on 27.08.2014 for the A.Y. 2013-14 admitting a total income of Rs.2,18,527/- under normal provisions and income of Rs.3,01,680/- under MAT provisions. During the assessment proceedings u/s 143(3) of the Income Tax Act, 1961 (the Act), the A.O. observed that the assessee has made payments without making TDS. The assessee's explanation was called for and not satisfied with assessee's explanation, AO made disallowance u/s 40(a)(ia) of the Act.

3.1. Thereafter, the AO observed that among other expenses an amount of Rs.21,32,975/- was claimed under the head 'registration charges'. AO observed that in the business of real estate, it is normal practice that registration charges are borne by the buyer, therefore, assessee was asked to show cause why the amount of Rs.21,32,975/- should not be disallowed. Assessee filed its reply stating as under:

"We submit that all the amounts debited to the account were not registration charges to be paid on registration of sale deeds. Most of them are expenses necessarily to be incurred at the Office of the Sub-Registrar to get the process of registrations completed. We have already given details in our letter dated 10th March, 2016 the amounts which were erroneously either debited or credited to the Registration Charges account. It is only correct to disallow the net debit of Rs.5,92,400/- and not the entire amount of Rs.21,32,975/-."

The AO, however, was not convinced with assessee's explanation and observed that no evidence was filed by the assessee as to how an amount of Rs.5,92,400/- has been arrived at and holding that the explanation was not substantiated by supporting evidence, the AO disallowed the entire amount of Rs.21,32,975/- and brought it to tax.

3.1. Aggrieved, assessee preferred an appeal before the CIT(A), who granted partial relief to assessee, against which, assessee is in appeal before the Tribunal by raising the following grounds of appeal.

1. *The order of Ld.CIT(A) is erroneous to the extent it is prejudicial to the appellant.*
2. *The Ld.CIT(A) erred in confirming the disallowance of expenditure of Rs.9,35,190/- made by AO by applying the provisions of S.40(a)(ia) of the I.T.Act, 1961.*
3. *The Ld.CIT(A) erred in confirming the addition of Rs.15,40,575/- out of Rs.21,32,975/- made by the AO by disallowing expenditure incurred on registration charges.*
4. *The Ld.CIT(A) erred in confirming levy of interest u/s 234A, u/s 234B and u/s 234C of the I.T.Act.*
5. *Any other ground that may be urged at the time of hearing.*

4. At the time of hearing the Ld.Counsel for the assessee submitted that the assessee is not pressing ground no.2. Accordingly, ground no.2 of assessee's appeal is dismissed as 'not pressed'.

4.1. Ground nos. 1 and 5 are general in nature and needs no adjudication.

4.2. As regards ground no.3, Ld.Counsel for assessee has drawn our attention to assessee's submissions before the CIT(A) which are reproduced at para 8.1 of the order of the CIT(A), and submitted that the CIT(A) after verifying assessee's submissions has accepted that the entire registration charges cannot be disallowed. Ld.Counsel for the assessee has also drawn my attention to the findings of the CIT(A) at para 8.4 of the order that in the course of assessment proceedings, assessee himself has admitted before the A.O. that only Rs.5,92,400/- needs to be disallowed and not the entire amount of Rs.21,32,975/- as claimed by the assessee. He submitted that the CIT(A) has accepted assessee's explanation, but while computing

disallowance to be confirmed, he disallowed an amount of Rs.15,40,475/- instead of Rs.5,92,400/-. He therefore prayed that disallowance may be restricted to Rs.5,92,400/-.

4.3. Ld.DR was heard who supported the orders of the authorities below and contended that assessee has filed explanation before the AO without any substantive evidences, and hence the entire addition made by the AO should be confirmed.

5. Having regard to rival contentions and material placed on record, I find that the CIT(A) has granted partial relief to assessee and the Revenue is not in appeal before the Tribunal against the relief so granted. I find that the CIT(A) has perused the evidences filed by assessee before him, and has accepted that the entire registration charges cannot be disallowed. He also agreed with the assessee that only a sum of Rs.5,92,400/- should be disallowed. However, he has committed an error in computing the disallowance by reducing the sum of Rs.5,92,400/- from the total addition. Therefore, I deem it fit and proper to direct the AO to restrict the disallowance to Rs.5,92,400/- instead of Rs.15,40,575/- made by the CIT(A).

6. As regards ground no.4, it is consequential in nature and the AO is directed to give relief, if any, to assessee.

7. In the result, assessee's appeal is partly allowed.

Order pronounced in Open Court on 03/12/2020.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Dated: 03rd December, 2020

- *gmv*

Copy of Order forwarded to:

1. M/s Narne Estates P.Ltd., No.1, Gun Rock Enclave, Kharkana, Secunderabad – 500 009.
2. ITO, Ward 16(2), Hyderabad
3. ACIT, Range 16, Hyderabad
4. CIT(A)-4, Hyderabad. 4.
5. Pr.CIT-4, Hyderabad
- 6 D.R. ITAT Hyderabad
7. Guard File