

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA
(Virtual Court)**

(Before Sri J. Sudhakar Reddy, Accountant Member & Sri Aby T. Varkey, Judicial Member)

**I.T.A. No. 2154/Kol/2018
Assessment Year: 2013-14**

**M/s. F.P.N. Engineering Pvt. Ltd.....Appellant
[PAN: AAACF 4249 D]**

Vs.

DCIT, Circle-12(1), Kolkata.....Respondent

Appearances by:

Sh. S. Jhajharia, FCA, appeared on behalf of the Assessee.

Sh. Supriyo Paul, Addl. CIT, appeared on behalf of the Revenue.

Date of concluding the hearing : January 5th, 2021

Date of pronouncing the order : January 13th, 2021

ORDER

Per J. Sudhakar Reddy, AM:

This appeal filed by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals)-4, Kolkata, [hereinafter the "CIT(A)"], passed u/s. 250 of the Income Tax Act, 1961 (the 'Act'), dated 15.02.2018 for the Assessment Year 2013-14 on the following grounds:

"1. For that in view of the facts and in the circumstances the Ld. CIT(A) erred in not deleting the addition of Rs. 43,688/- pertaining to the alleged undisclosed rent receipt and the Ld. CIT(A)'s action in merely setting aside the matter is unjustified and in view of the facts and in the circumstances it may be held accordingly.

2. For that in view of the facts and in the circumstances the Ld. CIT(A) erred in confirming the addition of Rs. 11,667/- disallowed by AO u/s 24(b) and in view of the facts and in the circumstances the Ld. CIT(A) confirmed such addition with appreciating the fact in the matter and in view of the facts and in the circumstances it may be held accordingly.

3. For that in view of the facts and in the circumstances the Ld. CIT(A) erred in adding Rs. 53,325/- claimed by the appellant as the establishment expenses and as such the Ld. CIT(A)'s action in confirming the action of the AO is bad in law and in view of the facts and in the circumstances it may be held accordingly.

4. For that in view of the facts and in the circumstances the Ld. CIT(A) erred in adding Rs. 43,797/- as alleged undisclosed interest income and in view of the facts and in the circumstances it may be held accordingly.

5. For that in view of the facts and in the circumstances the Ld. CIT(A) erred in confirming the addition of Rs. 43,797/- in the computation of book profit u/s 115JB and in view of the facts and in the circumstances it may kindly be held accordingly.

6. For that in view of the facts and in the circumstances the Ld. CIT(A) erred in allowing part relief in respect of addition of Rs. 9,26,970/- and directing the AO for addition of Rs. 36,748/- towards repair & maintenance without appreciating the fact that the said amount had already been offered by the appellant in the return of income itself and in view of the facts and in the circumstances the Ld. CIT(A)'s action in such respect is void abinitio and it may be held accordingly.

7. That the appellant craves leave to add, alter, amend, amplify or modify any or all of the above grounds of appeal at or before the time of hearing of the appeal.”

2. Ground nos. 1, 2 & 6 are dismissed as not pressed.
3. Ground no. 3 is against disallowance of statutory expenses claimed by the assessee. A perusal of these expenses demonstrates that they have been incurred as follows:

PARTICULERS	AMOUNT
Telephone Charges	2,662.00
Conveyance	190.00
Payment To Auditors As Auditors	11,000.00
For Taxation Matters	6,000.00
LEGAL & Professional FEES	21,054.00
Filing Fees	906.00
Advertisement & Publicity	5,867.00
Bank Charges	1,535.00
Miscellaneous Expenses	3,111.00
Total Amount	52,325.00

3.1. Such expenditure has to be allowed as deduction. The finding of the AO that this expenditure is levied on house property income is factually incorrect. Thus we allow this ground of the assessee and direct the AO to allow this deduction.

4. Ground nos. 4 & 5 are on the issue of whether interest has been paid to the assessee on income tax refund. The assessee submits that he had not received any such interest and in support produced Form-26AS.

4.1. The Revenue submits that as per its record, interest has been paid by the Department to the assessee on the amount of income tax refund. The ld. D/R could not produce any evidences in support of the conclusion drawn by the AO.

5. Under these circumstances, as agreed to by both the parties, this issue is remanded back to the file of the AO for fresh adjudication in accordance with law. We direct the AO to serve on the assessee the document based on which, he comes to a

conclusion that interest has been paid to the assessee on income tax refund. If such evidence is not handed over to the assessee, no addition can be made. In the result, ground nos. 4 & 5 are allowed for statistical purposes.

6. In the result, appeal of the assessee is allowed in part.

Kolkata, the 13th January, 2021.

Sd/-
[Aby T. Varkey]
Judicial Member

Dated: 13.01.2021

Bidhan (P.S.)

Copy of the order forwarded to:

1. ***M/s. F.P.N. Engineering Pvt. Ltd., C/o. M/s. Salarpuria Jajodia & Company, 7, Chittaranjan Avenue, Kolkata-700 072.***
2. ***DCIT, Circle-12(1), Kolkata.***
3. CIT(A)-4, Kolkata. (sent through mail)
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches