

आयकर अपीलीय अधिकरण “एफ” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“F” 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.364/Mum/2018

(निर्धारण वर्ष / Assessment Year: 2014-15)

M/s. Ventura Commodities Ltd. Ground Floor, Dhannur E, 15 Sir P.M. Road, Fort Mumbai-400 001	बनाम/ Vs.	ACIT-Circle-2(3)(1) Aaykar Bhavan Mumbai – 400 020
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AADCA-4490-N		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Sameer Dalal-Ld. AR
Revenue by	:	Ms. Usha Gaikwad-Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	10/05/2021
घोषणा की तारीख / Date of Pronouncement	:	10/05/2021

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid matter is a recalled matter since the appeal was earlier disposed-off ex-parte qua the assessee vide Tribunal order dated 29/05/2019. However, the order has been recalled vide MA No.555/Mum/2019 order dated 13/03/2020. Accordingly, the appeal has come up for fresh hearing before this bench.

2. In this appeal for Assessment Year (AY) 2014-15, the assessee is aggrieved by confirmation of two additions by Ld. Commissioner of

Income-Tax (Appeals)-6, Mumbai, [in short referred to as 'CIT(A)'], Appeal No.CIT(A)-6/IT-82/2016-17 vide order dated 15/11/2017 in the matter of assessment framed by Ld. Assessing Officer (AO) u/s 143(3) on 29/12/2016.

3. We have carefully heard the rival submissions and perused relevant material on record. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs. The assessee is a wholly owned subsidiary company of M/s Ventura Securities Limited. The assessee is in the business of commodities broking which is generated through sub-brokers, references etc.

4. Disallowance of payment made to Related Parties u/s 40(A)(2)(b)

4.1 The assessee reimbursed amount of Rs.21.77 Lacs to M/s Ventura Securities Ltd. on sales lead received in the ratio of 90:10 out of total expenditure incurred by the related party. However, the assessee failed to furnish the details of customers generated out of sales leads. The assessee could not show how the sales were improved with the sale leads. In the absence of sufficient documentary evidences, the amount of Rs.21.77 Lacs was disallowed u/s 40A(2)(b). The stand of Ld. AO, upon confirmation by learned first appellate authority, is under challenge before us.

4.2 As per assessee's submissions before lower authorities, M/s Ventura Securities Ltd. is doing marketing with various agencies and also advertises in various newspapers, e-sites etc. The expenses so incurred are reimbursed by the assessee to that entity in certain ratio towards its share of expenses. The assessee would gain out of such marketing & advertising which could not be identified with specific

clients. The arrangement so made would make it difficult for assessee to furnish the specific customer-list as desired by Ld. AO. We find that similar arrangement is continuing since AY 2011-12 and the assessee is making similar payment since then. The assessment for AY 2011-12 as well as for AY 2016-17 was framed u/s 143(3) wherein similar claim made by the assessee was accepted. Further, payer as well as payee, both are in highest tax bracket and therefore, the invocation of provisions of Sec. 40A(2)(b) would not be justified. Hence, on the facts and circumstances of the case, we are inclined to delete this addition. The ground raised by the assessee stand allowed.

5. Disallowance of Gift Article Expenses

5.1 The assessee purchased gold coins for Rs.41.16 Lacs. The assessee was asked to justify its deduction in terms of Sec. 37(1). In the absence of satisfactory explanation forthcoming from the assessee, the amount was disallowed. The stand of Ld. AO, upon confirmation by learned first appellate authority, is under challenge before us.

5.2 From the perusal of assessee's submissions before lower authorities, it transpires that the purchase of coins is duly supported by the invoice. It has been submitted that as per normal business practice, coins were distributed to sub-brokers to incentivize them to generate good business for the assessee. The details of the brokers to whom the coins have been distributed as performance reward was already placed before Ld. CIT(A). We find that the claim has been disallowed more on mere presumption that expenses were not incurred for business purposes. As against this, the assessee had placed requisite documentary evidences on record, in support of the claim. Therefore, the

addition so made would not be sustainable. By deleting the same, we allow this ground of appeal.

6. The appeal stands allowed in terms of our above order.

Order pronounced on 10th May, 2021

Sd/-

(Mahavir Singh)

उपाध्यक्ष / **Vice President**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 10/05/2021
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.