

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

Before Sh. A. D. Jain, Vice-President

Dr. B. R. R. Kumar, Accountant Member

ITA No. 3217/Del/2003 : Asstt. Year : 1997-98

ITA No. 3218/Del/2003 : Asstt. Year : 1998-99

M/s Laser Communications Pvt. Ltd., 2/11-B, 2 nd Floor, Jangpura-B, New Delhi-110014	Vs	Addl. CIT, Special Range-20, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAACL7494A		

Assessee by : None

Revenue by : Ms. Sweta Yadav, Sr. DR

Date of Hearing: 08.02.2022	Date of Pronouncement: 17.03.2022
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the assessee against the orders of Id. CIT(A)-VII, New Delhi dated 28.03.2003

2. The appeal for A.Y. 1997-98 and A.Y. 1998-99 has been filed before the Tribunal on 16.06.2003. Notices were issued and the last opportunity has been given to the assessee on 04.04.2006 adjourning the matter to 10.05.2006. The order has been pronounced on 01.02.2007 and recalled vide order dated 20.04.2010. Hearings have been held from 19.05.2010 to 14.08.2017. The hearings have been resumed from 08.02.2018 to 17.02.2020. On 19.10.2020, 01.12.2020, 18.01.2021, 23.03.2021, 22.07.2021, 29.09.2021, 01.12.2021 when the case has been called for hearing on the Bench, none appeared on behalf of the assessee nor any adjournment letter was filed.

3. Hence, it was decided to adjudicate the matter based on the record available before us. We find that no arguments on record with regard to reopening u/s 148.

4. The assessee company is engaged in rendering services of advertising like publicizing the products of the clients by various means like painting the messages of the manufacturers and their products on walls, putting banners, etc. During the year under consideration, the major clients of the assessee were Fena Group of companies, which are engaged in the manufacture of detergent powder and other allied products. There was a search u/s 132(1) of the Income Tax Act, 1961 of the Fena Group of Companies in September, 1997 and simultaneously survey proceedings u/s 133A were conducted on the business premises of the assessee at 101, Laxman Chambers, Jangpura, New Delhi. Subsequently, the books of account and vouchers of the assessee company were impounded by the investigating department.

5. The Auditor notes to the accounts read as under:

"He had "not obtained all the information and explanation which to the best of our knowledge and belief were necessary for the purpose of our audit." The Auditors also commented that proper books of accounts as required by law have not been kept by the company so far as appears from examination of such books. They further stated that they are unable to form an opinion on the said balance sheet and the P&L a/c read together with the notes which given the information required by the companies as no journal, vouchers have been produced. What is pertinent is the auditor's comment that "not only various cash and bank vouchers were missing but also no supporting have been found for all the vouchers". Hence, the

auditors categorically stated that the Balance sheet and P&L a/c do not given true and fair view.”

Addition of Rs.25,000/-:

6. The Assessing Officer added this amount on the ground that it was “unsubstantiated”. It was submitted that the credit was in the name of Smt. Kamini Gupta, Director of the Company. The closing balance in her account in the books of the assessee on 31.03.1996 was Rs.1,45,000/-. Therefore, there was no justification for treating the opening balance of Rs.1,45,000/- as the income of the previous year under appeal. As the fresh credit of Rs.25,000/- had not been proved to be genuine to the satisfaction of the Assessing Officer and no material in this behalf was furnished in the course of appeal before the Id. CIT(A), we decline to interfere with the order of the Id. CIT(A) confirming the addition of Rs.25,000/-.

Labour Charges:

7. The Assessing Officer disallowed the entire labour charges claimed in the absence of supporting vouchers, contracts with the parties from whom the work was done, copy of the work order etc. It was not known for whom a particular work was done. In appeal, it was the assessee’s case that as the work was done in villages, proper vouchers for expenses could not be obtained. The assessee has not submitted even the primary evidences before the revenue authorities, we decline to interfere with the order of the Id. CIT(A) on this issue.

Other Disallowances:

8. The additions have been made for similar reasons are dealt with below:

Rs.1,05,31,205/- comprised the following items:

Consumable stores	Rs.77,785/-
Wall rent	Rs.9,150/-
Material expenses	Rs.50,97,860/-
Video charges	Rs.6,01,200/-
Van charges	Rs.43,37,210/-
Rickshaw charges	Rs.4,08,000/-
Total:	Rs.1,05,31,205/-

9. The additions have been confirmed owing to non-production of any supporting documents. Hence, in view of the judgment of the Hon'ble Apex Court in LH Sugar Factory & Oil Mills Pvt. Ltd. Vs. CIT 125 ITR 293 wherein it was held that the onus is on the assessee to bring all the material facts on record to substantiate the claim of allowability of expenses, we decline to interfere with the order of the Id. CIT(A) on this issue.

Bogus Billing: (A.Y. 1997-98 & A.Y. 1998-99)

10. The Assessing Officer held that the bills issued by the assessee were bogus and intended to help third parties evade tax. Based on the field enquiries conducted at Jalandhar, Patna, Calcutta, Faridabad, Jammu, the AO treated an amount of Rs.1,37,43,364/-. The Id. CIT(A) confirmed the addition in the absence of any supporting documents. Since, the credits have not been proved to the satisfaction of the AO, we hereby affirm the action of the Id. CIT(A).

Cash Credit: (A.Y. 1997-98 & A.Y. 1998-99)**Unsecured Loan:**

11. In this case, the Director Sh. Vipin Gupta of the Company has infused share application money of Rs.14,15,000/-. The AO made addition of this amount under the head "cash credits" u/s 68 of the Income Tax Act, 1961. We have examined the fact. Since, the Director has submitted that the amount has been given by him, no addition is called for in the hands of recipient company.

Administrative Expenses: (A.Y. 1997-98 & A.Y. 1998-99)

12. We find that no reasoning has been given by the revenue authorities for disallowing the alleged inflation of administrative expenses. Hence, we direct that the addition be deleted.

Interest on Fixed Deposit: (A.Y. 1997-98 & A.Y. 1998-99)

13. Being a notional amount brought to tax without getting a hold of any evidence on record, we hereby direct that the addition be deleted.

14. In the result, the appeals of the assessee are partly allowed.

Order Pronounced in the Open Court on 17/03/2022.

Sd/-

(A. D. Jain)
Vice President
Dated: 17/03/2022

Subodh Kumar, Sr. PS
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR