

IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

ITA No. 1786/Mum/2021

(A.Y: 2007-08)

Ygroo Digital P Ltd, Him and Kays House # 1, Powai Vihar, Mumbai – 400076	Vs.	ACIT, Cicle – 15(2)(1) Room No. 357, 3 <sup>rd</sup> Floor, Aayakar Bhavan, MK Road Mumbai-400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCT4903A		
Appellant	..	Respondent

Appellant by :	Mr.Mukesh Maheswari.AR
Respondent by :	Ms.Kavita Kaushik.DR

Date of Hearing	07.06.2022
Date of Pronouncement	13.06.2022

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

The assessee has filed the appeal against the order of the CIT(A)- National Faceless Appeal Centre (NFAC), Delhi passed u/s 143(3) r.w.s 254 and 250 of the Act. The assessee has raised the following grounds of appeal:

- 1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A)-24, Mumbai erred in confirming the disallowance of personnel expenses amounting to Rs. 18,32,983/- without appreciating the facts of the case and not considering the submissions made by the appellant.*

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*2. The appellant craves leave to add, alter, amend or withdraw all or any of the grounds of appeal herein and to submit such statements, documents and papers as may be considered necessary either at or before the appeal hearing.*

2. The brief facts of the case are that the assessee company is engaged in the business of providing consumer direct travel services. The assessee has filed the return of income for the A.Y 2007-08 on 31.10.2007 disclosing a total loss of Rs.79,06,055/- and the Assessing Officer(A.O) has made addition of personal expenses of Rs. 18,32,983/- and legal expenses of Rs. 12,04,032/- and assessed the total loss of Rs48,69,040/- and passed the order u/s 143(3) of the Act on 31.12.2009.

3. Aggrieved by the order of the A.O, the assessee has filed an appeal before the CIT(A) and was dismissed as no explanations were filed on the additions of the A.O. Aggrieved by the CIT(A)order, the assessee has preferred an appeal before the Tribunal. Whereas the Hon'ble Tribunal considering the facts and submissions of the assessee vide order ITA No. 4957/Mum/2016 dated 15.06.2018 has restored the matter to the Assessing officer.

4. As per the directions of the Hon'ble Tribunal, the A.O has issued notice u/s 142(1) of the Act and the

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assessee was required to submit the details on claim of expenses but there was no compliance. Therefore, the A.O is of the opinion that the assessee in spite of providing opportunities of hearing is non cooperative in submitting the details. Finally the AO has observed that the assessee has claimed Rs. 24,43,977/- as personal expenses referred in notes to accounts. Whereas the personal expenses represent the expenses reimbursed to M/s Sabre International for their employees working for the company during the period. Since no information was filed, therefore the AO made addition of Rs. 18,32,983/- Similarly, the assessee has claimed in the financial statements an amount of Rs. 12,04,032/- was paid to RSM & Co. as legal fees. The A.O. based on the information on the record found that the claim of the assessee is in the nature of preliminary expenses and do not pertain to day to day expenses of the assessee, hence the claim of the assessee is not acceptable and made a addition of Rs.12,04,032/- and assessed the total loss of Rs. 48,69,040/- and passed the order u/s 143(3) r.w.s 254 of the Act dated 31.12.2019.

5. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas in the appellate proceedings, the CIT(A) considered the grounds of appeal, findings of the scrutiny assessment and earlier directions

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of the Honble Tribunal. Even before the CIT(A), the assessee could not submitted the details. The observations of the CIT(A) that there is dispute with the directors of the subsidiary company and the cases are pending before the Court and that cannot be the basis for not furnishing the information. The CIT(A) has dismissed the ground of appeal with respect to the expenditure incurred by the group company and reimbursement and has confirmed the addition of Rs. 18,32,983/-. Whereas in respect of legal expenses of Rs. 12,04,032/- the CIT(A) has considered the provisions of preliminary expenditure u/s 35D of the Act and granted relief of 1/5 of the legal charges and partly allowed the assessee appeal. Aggrieved by the order of the CIT(A) the assessee has filed an appeal before the Hon'ble ITAT.

6. At the time hearing, the Ld. AR submitted that the CIT(A) erred in not considering the factual information and the facts with respect to judicial custody of the directors and the assessee could not substantiated the claim with the material information. The contention of the Ld. AR that the expenses have been incurred by the assessee in respect of the group concern and it is for business purpose and is in the nature of reimbursement of overheads. The Ld. AR submitted that the assessee has good case on merits and can substantiate with

evidences and prayed for allowing the appeal. Contra, the Ld. DR relied on the order of the CIT(A).

7. We heard the rival submissions and perused the material on record. The sole disputed issue as envisaged by the Ld. AR that the CIT(A) erred in confirming the addition made by the A.O in respect of personal expenses which is reimbursed to M/s Sabre International for their employees working for the company during the period. The Ld.AR submitted that there was legal disputes between the parties and certain documents have been lost and the compliant was lodged on the one of the subsidiary company director and is pending in the court of law and the assessee could not submit the information. Further the Ld.AR emphasized that the assessee is now ready to substantiate the claim with the evidences and prayed for an opportunity of hearing. We are of the view that there could be various reasons for non submission of details which cannot be overruled. We considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case along with evidences. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee

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should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of appeal and allow the grounds of appeal of the assessee for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 13.06.2022.

Sd/-  
(GAGAN GOYAL)  
**ACCOUNTANT MEMBER**

Sd/-  
(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

Mumbai, Dated 13.06.2022

KRK, PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, Mumbai / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

( Asst. Registrar)  
ITAT, Mumbai