

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI KULDIP SINGH (JUDICIAL MEMBER)

I.T.A No.1925/Mum/2022
(Assessment Year 2013-14)

M/s Style Rite Optical Industries, Pattani House 425, Kalbadevi Road, Kalbadevi Mumbai-400 002 PAN : AACFS3919G	vs	Assistant Commissioner of Income Tax, Circle 18(3), Mumbai. 6 th Floor, Earnest House, Nariman Point, Mumbai-400 021
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Assessee represented by	Shri Ashwin Jain
Revenue represented by	Shri Rajendra Chandekar

Date of hearing	03/11/2022
Date of Pronouncement	08/11/2022

ORDER

The Appellant, M/s Style Rite Optical Industries (hereinafter referred to as the 'assessee') by filing the present appeal, sought to set aside the impugned order dated 08/06/2022 passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the 'CIT(A)'] qua the assessment order for Assessment Year 2013-14, on the effective ground interalia that:-

- "1. In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in sustaining an ad-hoc disallowance of Rs 60,000 from travelling, petrol and telephone expenses.
2. In the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in sustaining the addition of notional interest amounting to Rs.

10,20,000, being 12% of the interest free security deposits for acquiring premises on rent.”

2. Briefly stated, facts necessary for adjudication of the issues at hand are – during scrutiny of assessee’s return of income for the year under consideration, Assessing Officer noticed from the P&L Account that assessee has claimed Rs.1,40,888/-, Rs.6,73,047/- and Rs.2,14,824/- on account of petrol expenses, travelling expenses (local) and telephone expenses, respectively. Assessing Officer, finding element of personal expenses in this claim made an adhoc disallowance of Rs.1,20,000/- and added the same back to the income of the assessee.

Assessing Officer also made disallowance of Rs.10,20,000/- @12% being the notional interest on the security deposit of Rs.85,00,000/- paid by the assessee for hiring the business premises of 14,000 sq.ft. on the rent of Rs.2,00,000/- from M/s Patni Ventures Pvt Ltd and thereby framed the assessment under section 143(3) of the Act.

3. Assessee carried the matter before Ld.CIT(A) by way of filing appeal who has given part relief qua telephone, travelling and petrol expenses by restricting to Rs.60,000/- as against Rs.1,20,000/- made by the Assessing Officer. However, Ld.CIT(A) confirmed the addition of Rs.10,20,000/- made by the Assessing Officer on account of disallowance of the interest expenses.

Feeling aggrieved, assessee has come up before the Tribunal by way of filing present appeal.

4. Sofar as question of making disallowance on account of petrol expenses, travelling expenses and telephone expenses reduced by Ld.CIT(A) from Rs.1,20,000/- to Rs.60,000/- is concerned, the entire disallowance has been made on the basis of estimation and guess work. I examined para 4 of the assessment order, where Assessing Officer has specifically recorded fact that “the assessee was asked to produce necessary details / documents / bill, vouchers to substantiate its claim. On verification of the same on test check basis, it is seen that some of these expenses are incurred in cash and are supported by self made vouchers and are not fully verifiable.”

5. No doubt, Auditor of the assessee has also pointed out in the tax audit report that some elements of personal expenses having been debited in the P&L Account is there, but we are of the considered view that when detailed enquiry has not been carried out by the Assessing Officer as well as Ld.CIT(A), rather proceeded on the basis of estimate and guess work, disallowance to the tune of Rs.30,000/- is fair and reasonable keeping in view the total amount of expenses claimed by the assessee. So disallowance on account of petrol, travelling and telephone expenses is restricted to Rs.30,000/-.

6. So far as question of addition of Rs.10,20,000/- on account of notional interest being 12% of the interest on security deposit made by the Assessing Officer is concerned, the assessee, though claimed that it was having own surplus interest free funds which were utilized for depositing the security of Rs.85 lakhs with M/s Patni Ventures Pvt Ltd,

but strangely enough, assessee has not brought on record any evidence to prove this fact before Ld.Assessing Officer as well as Ld.CIT(A).

7. However, during the course of argument, Ld.AR for the assessee filed balance-sheet and P&L Account showing surplus interest free funds at its disposal to meet with the expenses of depositing Rs.85 lakhs with M/s Patni Ventures Ltd, which have never been verified by the Assessing Officer. So the issue is required to be sent back to the Assessing Officer to verify the evidence brought on record by the assessee and allow the same, if found correct. Consequently, this ground is allowed for statistical purpose. Resultantly, appeal filed by the assessee is partly allowed.

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

Order pronounced in the open court on 08/11/2022.

Sd/-

(KULDIP SINGH)
JUDICIAL MEMBER

Mumbai, Dt : 8.11. 2022

Pavanan

Copy to :

1. The appellant
 2. The respondent
 3. The CIT concerned
 4. The CIT(A)
 5. DR,SMC Bench
 6. Guard File
- (True copy)

By order

Dy.Registrar / Asstt.Registrar
ITAT, Mumbai Benches