

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "H" BENCH: NEW DELHI**

**BEFORE SHRI N.K.BILLAIYA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No.515/Del/2022

[Assessment Year : 2017-18]

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| Anjala Exhibitors Pvt.Ltd., G-80, Lajpat Nagar-I, New Delhi-110024. PAN-AAACA0219J | vs | CIT(A), National Faceless Appeal Centre, New Delhi |
| APPELLANT | | RESPONDENT |
| Appellant by | Shri Ranjan Chopra, FCA | |
| Respondent by | Ms. Shweta Yadav, Sr. DR | |
| Date of Hearing | 21.11.2022 | |
| Date of Pronouncement | 21.11.2022 | |

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2017-18 is directed against the order of Ld. CIT(A), National Faceless Appeal Centre ("NFAC"), Delhi dated 24.12.2021.

2. The assessee has raised following grounds of appeal:-

1. *"Section 37 - The Ld. CIT(A) erred in law as well as on facts in upholding the ad-hoc disallowance of Rs.35,27,699 made by the Ld. AO -The Ld. CIT(A) erred in law as well as on facts in upholding the ad-hoc disallowance of Rs.35,27,699 by disallowing 30% expenses out of Rs.1,17,58,995 incurred in carrying on the regular business of money lending, arbitrarily ruling the same to be excessive merely based on surmises and conjectures, without any evidence and without rejecting the books of account of the appellant that were duly audited;*
2. *Section 270A - The Ld. CIT(A) erred in upholding penalty proceedings initiated by the Ld. AO - That on the facts and*

circumstances of the case and in law, the Ld. CIT(A) erred in upholding penalty proceedings under section 270A of the Act initiated by the Ld. AO;

3. *Faceless Appeal Scheme - The Ld. CIT(A) erred by not providing any opportunity of being heard even though when specifically asked by the Appellant and violated the prescribed manner as confirmed by the CBDT through introducing revised Faceless Appeal Scheme, 2021.*
4. *Others - General Ground - The above grounds of appeal are independent and without prejudice to each other. The Appellant craves leave to add, alter, amend or forgo any grounds of appeal at the time of hearing.”*

BRIEF FACTS OF THE CASE

3. Facts giving rise to the present appeal are that in this case, return of income of the assessee was e-filed on 28.10.2017, declaring an income of Rs.1,64,64,930/-. The case was selected for scrutiny under CASS and the assessment u/s 143(3) of the Income Tax Act, 1961 (“the Act”) was framed vide order dated 24.12.2019. Thereby, the Assessing Officer (“AO”) noticed that the assessee has claimed expenses of Rs.1,28,54,464/-. The AO was of the view that the expenses claimed by the assessee were not justified hence, he disallowed 30% of the expenses and made addition of Rs.35,27,699/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, sustained the addition and dismissed the appeal of the assessee.

5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

6. Ld.AR of the assessee submitted that the authorities below have grossly erred in making the addition and sustaining the same. He contended that Ld.CIT(A) has erroneously stated that the assessee had returned business income at ZERO. Therefore, the expenditure so claimed is not justified. Ld.AR of the assessee submitted that the expenses have been allowed in past. He further submitted that the assessee was not provided adequate opportunity to explain its case. Ld.AR of the assessee took us through the Paper Book. He contended that the assessee has duly disclosed business income in its P&L A/c. He drew our attention to Page No.79 of the Paper Book where for the year under consideration, the assessee had disclosed revenue from the operations. He therefore, contended that the finding of authorities below is incorrect. He further drew our attention to Page No.69 of the Paper Book where the statement of income is enclosed.

7. On the contrary, Ld. Sr. DR opposed these submissions and took us to the income filed by the assessee. Ld. Sr. DR drew our attention to Page No.33 of the paper Book to demonstrate that the assessee himself has disclosed NIL income from business.

8. We have heard Ld. Authorized Representatives of the parties and perused the material available on record. We find merit into the contention of the assessee that it was not the case of zero business income. On the contrary, the assessee has disclosed the business income. Due to set off losses, business income of the assessee came to be NIL. It is also contended on behalf of the assessee that such expenses were allowed in past. The authorities below have not stated as to why they are taking different stand ignoring the Rule of

Consistency. We find that the assessee has been declaring such income in past as well which was duly scrutinized u/s 143(3) of the Act. The assessment order related to Assessment Years 2013-14, 2014-15 have been placed on record in the form of Paper Book. In both these Assessment Years, no such disallowance was made by the AO. Therefore, considering the totality of the facts and the contention of the assessee, the Revenue has not brought any material for taking a different view in the year under consideration. The AO is hereby directed to delete the impugned addition. Thus, Ground No.1 raised by the assessee is allowed.

9. Ground No.3 raised by the assessee is against providing inadequate opportunity to the assessee. This ground of assessee's appeal lacks merit as the records speak otherwise. Hence, Ground No.3 raised by the assessee is dismissed.

10. Ground No.2 raised by the assessee is premature and Ground No.4 raised by the assessee is general in nature, need no separate adjudication hence, dismissed.

11. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 21st November, 2022.

Sd/-

(N.K.BILLAIYA)
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI