

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH, PANAJI – VIRTUAL COURT

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.15 to 17/PAN/2022
निर्धारण वर्ष / Assessment Years : 2013-14 to 2015-16

Smt. Vandana Sameer Majali, H. No.189/B1/A, Shukrawar Peth, Tilakwadi, Belagavi- 590006. PAN : APUPM1202K	Vs.	ITO, Belagavi. Ward-2(1),
Appellant		Respondent

Assessee by : Shri Akash Kumar
Revenue by : Shri N. Shrikanth

Date of hearing : 24.11.2022
Date of pronouncement : 09.12.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

These are the appeals filed by the assessee directed against the separate orders of Id. Commissioner of Income Tax (Appeals), Belgaum [‘the CIT(A)’] dated 26.06.2019 and 27.06.2019 for the assessment years 2013-14 to 2015-16 respectively.

2. Since the identical facts and common issues are involved in all the above captioned three appeals, we proceed to dispose of the same by this common order.

3. For the sake of convenience and clarity, the facts relevant to the appeal in ITA No.15/PAN/2022 for the assessment year 2013-14 are stated herein.

ITA No.15/PAN/2022, A.Y. 2013-14 :

4. Briefly, the facts of the case are that the appellant is an individual engaged in the business of dealing in stock-in-trade and sub-brokerage. The Return of Income for the assessment year 2013-14 was filed on 29.09.2013 declaring total income of Rs.8,10,940/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-1(2), Belagavi ('the Assessing Officer') vide order dated 07.12.2018 passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 ('the Act') at total income of Rs.27,58,620/-. While doing so, the Assessing Officer made addition by disallowing the commission expenditure of Rs.1,68,275/- and Rs.17,33,286/- doubting the genuineness of expenditure as the assessee had failed to file the details such as nature of services provided to them and in the absence of any agreement.

5. Being aggrieved by the above assessment order, an appeal was filed before the Id. CIT(A), who vide impugned order confirmed the

addition in the absence of any evidence in support of the services rendered by the commission agent.

6. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

7. It is contended before us that the commission was paid to various persons in connection with advice or opinion rendered for their clients and derivative trading. No expenditure can be disallowed on mere surmises, conjectures and presumptions and the tax was deducted at source on all such commission payments and expenditure should not have been disallowed.

8. On the other hand, Id. Sr. DR submitted that in absence of any evidence on record indicating that the services are rendered by commission agent, therefore, no commission expenditure can be allowed as deduction.

9. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the allowability of commission expenditure. The Assessing Officer doubted the genuineness of the expenditure merely on the ground that the appellant had failed to prove the services rendered by the said commission recipients. Even on appeal

before the Id. CIT(A), the action of the Assessing Officer was confirmed. There is no requirement under law that every expenditure incurred by an assessee should be supported by the agreement, what has to be examined by the Assessing Officer is the genuineness of the expenditure and whether expenditure incurred is wholly and exclusively for the purpose of business and the contention of the appellant that the tax was deducted at source on commission payment was not being controverted by the Revenue. In the circumstances, I am of the considered opinion that the matter may be remitted to the file of the Assessing Officer to decide the allowability of the said commission expenditure based on the material on record after affording reasonable opportunity of being heard to the appellant. Thus, the grounds of appeal filed by the assessee stand partly allowed for statistical purposes.

10. In the result, the appeal filed by the assessee in ITA No.15/PAN/2022 for A.Y. 2013-14 stands partly allowed for statistical purposes.

ITA Nos.16 & 17/PAN/2022, A.Ys. 2014-15 & 2015-16 :

11. Since the facts and issues involved in the above two appeals in ITA Nos.16 & 17/PAN/2022 for A.Ys. 2014-15 & 2015-16 are identical to the appeal in ITA No.15/PAN/2022 for A.Y. 2013-14, therefore, our

decision in ITA No.15/PAN/2022 for A.Y. 2013-14 shall apply *mutatis mutandis* to the remaining two appeals of the assessee in ITA Nos.16 & 17/PAN/2022 for A.Ys. 2014-15 & 2015-16 respectively. Accordingly, the appeals of the assessee in ITA Nos.16 & 17/PAN/2022 for A.Ys. 2014-15 & 2015-16 stand partly allowed for statistical purposes.

12. To sum up, all the above three captioned appeals filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 09th day of December, 2022.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 09th December, 2022.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-, Belgaum.
4. The Pr. CIT, Belagavi.
5. DR, ITAT, Panaji.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलिय अधिकरण, पुणे / ITAT, Pune.