आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL INDORE BENCH, INDORE

BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

(Conducted through Virtual Court)

ITA No.233/Ind/2021
Assessment Year: 2013-14

ACIT(Central)-1 Indore	**बनाम/** Vs.	Surya Infraventures Pvt. Ltd. Nanda Nagar, Indore
(Appellant / Revenue)		(Respondent / Appellant)
PAN: AADCA 4235 D		
Assessee by	Shri S.N. Agrawal & Shri Bhavesh Agrawal, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.09.2022	
Date of Pronouncement	01.12.2022	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 16.08.2021 passed by learned Commissioner of Income-Tax (Appeals)-3, Bhopal **["Ld. CIT(A)"]**, which in turn arises out of assessment-order dated 23.03.2016 passed by learned ACIT(Central)-I, Indore **["Ld. AO"]** u/s 143(3) of the Income-tax Act, 1961 **["the Act"]** for Assessment-Year **["AY"]** 2013-14, the revenue has filed this appeal on following grounds:

> *1. On the facts and in the circumstances of the case, the ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 42,86,812/-*

made u/s 41(1) of the Act on account of Cessation of Liability and has overlooked the findings of the AO mentioned in the assessment order.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 1,86,53,917/- made on account of bogus expenses claimed under the head payment of subcontractor and has overlooked the findings of the AO mentioned in the assessment order.

3. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 5,00,000/- made on account of disallowance out of various expenses and has overlooked the findings of the AO mentioned in the assessment order."

2. Heard the learned Representatives of both sides at length and perused case-records.

3. The registry has informed that that the present appeal is filed after a delay of 17 days and therefore time-barred. The Ld. AR prayed that the delay has occurred due to Covid-19 Pandemic. The Ld. AR further placed reliance on the order of Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020 read with Misc. Applications**, by which suo motu extension of the limitation-period for filing of appeals w.e.f. 15.03.2020 under all laws has been granted and hence there is no delay in fact. We confronted the Ld. DR who agreed to the submission of Ld. AR. In view of this, the appeal is proceeded with for hearing, there being no delay.

4. Briefly stated the facts are such that the assessee-company filed return of relevant AY 2013-14 declaring a total income of Rs. 80,83,010/-. The case was selected under scrutiny through CASS and statutory notices u/s 143(2)/142(1) were issued from time to time which were responded by assessee. Finally, the Ld. AO completed assessment u/s 143(3) after making certain additions, resulting in total income of Rs. 3,15,23,739/-. The assessee challenged all additions in first-appeal and the Ld. CIT(A) allowed full relief. Now, the revenue has come in next-appeal before us assailing the order of Ld. CIT(A).

5. We take up all grounds one by one in seriatim.

Ground No. 1:

6. This Ground relates to the addition of Rs. 42,86,812/- made by Ld. AO on account of cessation of liabilities u/s 41(1) of the Act and deleted by Ld. CIT(A).

7. During assessment-proceeding, Ld. AO observed that the following creditors had been standing in the books of assessee as outstanding since 31.03.2010 i.e. for more than 3 years:

Career Care Consultancy	1,30,623/-
Sisodiya Enterprise	1,61,099/-
Shardia Constructions	3,20,667/-
Dilip Buildcon Pvt. Ltd.	19,67,423/-
Abhay Pipada	9,00,000/-
Asha Agarwal	8,07,000/-
Total	42,86,812/-

Ld. AO further observed that the assessee has failed to prove that these liabilities shall be paid in future. Accordingly, Ld. AO invoked section 41(1) and treated the liabilities of Rs. 42,86,812/- as deemed income u/s 41(1) on the reasoning that there is a cessation of liabilities.

8. During first-appeal, Ld. CIT(A) verified the status of these liabilities and observed them as falling under 3 categories as under:

(i)	The assessee had three accounts of the same party in its books of account for different types of transactions. There is a liability of Rs. 19,67,423/- in one account but there are receivable	Dilip Buildcon Pvt. Ltd.	19,67,423/-

	of Rs. 18,13,600/- (+) Rs. 35,00,000/- in other two accounts; thus net result is receivable of Rs. 33,46,177/-. In short, there is no liability payable by assessee.		
(ii)	The assessee had paid these liabilities on 23.03.2015 by cheque, prior to passing of the impugned assessment-order on 23.03.2016.	Abhay Pipada	9,00,000/-
		Asha Agarwal	8,07,000/-
(iii)	The assessee has written-off these liabilities in later AY 2016-17 and offered as income.	Career Care Consultancy	1,30,623/-
		Sisodiya Enterprise	1,61,099/-
		Shardia Constructions	3,20,667/-

Thereafter, Ld. CIT(A) deleted the addition by observing and holding as under:

> *"4.1.1 …… Considering the submission of the assessee it is evidently clear that the creditors were paid off or written off in later years, however, in the year under consideration there was no write off in the books of accounts of the appellant. Now the question arises, whether the AO can make addition in the circumstances, when the liability was not unilaterally written off in its books of accounts. The provisions of section 41(1) of the Act clearly states that the provisions of section can only be invoked when the assessee has written off the liabilities in its books of accounts by unilateral act. The appellant, thus, has not derived or obtained any benefit from the impugned trading activity. Hon'ble ITAT Indore in the case of* ***Smt. Abha Devi Agarwal (ITA No. 58/Ind/2015 dated 16.03.2017)*** *having similar set of facts has held as under:-*
>
> > *"2.5 We have considered the facts, rival submissions and perused the material available on record. We find that the provision of Section 41(1)(a) provides that where the assessee had obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof the amount obtained by him*

shall be deemed to be profits chargeable to tax. Thus, the Section contemplates that by obtaining any benefit by an amount either in cash or in any other manner whatsoever, whether benefit by way of remission or cessation and it should be of a particular amount obtained by him Thus, obtaining benefit by virtue of remission or cessation is sine-quo-non for the application of Section unless such liability is written off in hooks of accounts by unilateral act of the assessee We find that the liability of Rs. 6,76.266/- *in respect of Mahima Porsepun was outstanding for more than three years but the same has not been written off in the books of accounts by the assessee. Therefore, there was no basis by treating the said amount as remission or cessation of a trading liability of the assessee when it was not unilateral written off by the assessee. We find that the AO has made this addition merely on the basis of expiry of limitation to file the suit by creditor, where he cannot who come up with a proceedings for enforcement of debt However we find that this amount was subsequently settled by the assessee in the succeeding yean therefore, the assessee has not derived or obtained any benefit in respect of such trading liability. Therefore, the addition made on the basis of presumption cannot be sustained in the eyes of law. The Ld. AR has relied on the case of CIT Vs. Southern Roadways Ltd* 282 *ITR* 379 *wherein the decision of the Apex Court in the case of CIT v/s Sugauli Sugar Works (P) LId,* (1999) 152 *CTR (SC) 46:* (1999) 236 *ITR 518 (SC) was considered and it was held that the principle that expiry of period of limitation prescribed under the Limitation Act, could not extinguish the debt but it would only prevent the creditor from enforcing the debt, has been well settled. If that principle is applied it is clear that some entry in the books of accounts of the debtor made unilaterally without any act on the part of the creditor will not enable the debtor to say that the liability has come to an end Apart from that, that will not by itself confer any benefit on the debtor as contemplated by the Section. The other decision as relied by the Ld. AR has mentioned above are also supports his view. Therefore, we are of the considered opinion that the provision of Section 41(I)(a) of the Act can only be invoked when the assessee has written off the liability in its books of accounts by unilateral act Since, the assessee has not Written off the aforesaid amount In its books of accounts and the payment has been settled in the subsequent year, Therefore, the addition so made by the AG, is not sustainable in the law Accordingly, the same is deleted This grounds of appeal is therefore allowed."*

4.1.2 Thus, judiciously following the decision of Hon'ble Indore ITAT in the case of Smt. Abha Devi Agarwal (supra), the AO was not justified in making addition invoking provisions of section 41(1)(a) of the Act and therefore, addition made by the AO amounting to Rs. 42,86,812/- is deleted. Therefore, appeal on this ground is allowed."

9. Before us, Ld. DR vehemently supported the assessment-order and argued that the Ld. AO has categorically found that the impugned liabilities were outstanding for more than 3 years, which in itself, without proving anything, demonstrated that the liabilities have ceased to exist. Hence, according to him, Ld. AO has rightly invoked section 41(1) and made addition which must be upheld.

10. Per contra, Ld. AR placed a heavy reliance upon the order of Ld. CIT(A). He mentioned that neither the assessee has written off the impugned liabilities in books of account nor the Ld. AO has found any iota of proof to demonstrate that the concerned liabilities had ceased to exist. In this scenario, Ld. AR strongly relied upon the decision of **ITAT, Indore in Smt. Abha Devi Agarwal, ITA No. 58/Ind/2015 dated 16.03.2017 (supra)** which was also relied upon by Ld. CIT(A) while granting relief to the assessee. Some other decisions relied upon by Ld. AR are as under:

(i) Uttam Air Products (P) Ltd. Vs. DCIT 99 TTJ 718 (ITAT, Delhi)

(ii) New Commercial Mills Co. Ltd. Vs. DCIT (2001) 73 TTJ 893 (ITAT, Ahmedabad)

(iii) J.R. Organics Ltd. Vs. ACIT (2009) 122 TTJ 887 (ITAT, Lucknow)

(iv) ACIT Vs. Popular Vehicles & Services Ltd. (ITAT, Coachin)

Ld. AR submitted that in these decisions, it has been loudly held that section 41(1) cannot be applied unless the liability is actually written off in books of account or the Ld. AO brings some tangible proof on record to demonstrate that the creditors have given up their claims. Therefore,

according to Ld. AR, in the present case the requirement of section 41(1) is not met and the Ld. CIT(A) has rightly deleted the addition made by Ld. AO.

11. We have considered rival contentions of both sides and analysed the relevant facts in the light of provision of section 41(1) as interpreted in the judicial precedents cited before us. We observe that the present case can be fit into a narrow compass and we need go into much detail. The undisputed facts emerging from discussions are such that (i) the assessee has not written off impugned liabilities in the books of account. In fact, by showing those liabilities in the books of accounts as on 31.03.2013, the assessee is not only acknowledging those liabilities but also demonstrating a strong intention to pay the same; and (ii) the revenue has not brought any iota of proof to prove that the creditors have given up their claims. Hence it is patently clear that the liabilities did exist and there was no cessation during the previous year relevant to AY 2013-14 under consideration. For the sake of completeness, we also note that in subsequent year, the assessee has either paid those liabilities or written off in books of account when they actually ceased. On the legal front of section 41(1), we observe that it is an established interpretation that there is no law prescribed in Income-tax Act which states that after expiry of a particular period, say 3 years, the liability shall be deemed to have ceased. Further, though the Limitation Act prescribes a period of 3 years but that provision does not extinguish the liability; it only debars the creditor from filing a legal suit against the debtor. In the present case, the revenue has only made a presumption that owing to expiry of 3 years, the liability might have ceased and on that basis alone, invoked section 41(1). But section 41(1) does not allow such a stand of revenue. This view is fully supported by the decision of Hon'ble Co-ordinate Bench of ITAT, Indore in **Smt. Abha Devi Agarwal, ITA No. 58/Ind/2015 dated 16.03.2017** ***(supra)***. Therefore, we are in agreement with the Ld. CIT(A) that in the present case, invocation of section 41(1) is without any basis and addition made by Ld. AO is not sustainable. We approve the decision taken by Ld. CIT(A) which is very much sound on the basis of facts

and law. Accordingly, we find Ground No. 1 of revenue devoid of any merit and dismiss the same.

Ground No. 2:

12. This Ground relates to the addition of Rs. 1,86,53,917/- made by Ld. AO on account of bogus payments to sub-contractor and deleted by Ld. CIT(A).

13. During assessment-proceeding, Ld. AO observed that the assessee has claimed a deduction of Rs. 1,86,53,917/- on account of payment to M/s Lubecon Marketing for sub-contractorship work. The Ld. AO observed this expenditure as non-genuine and disallowed deduction for the reasons that (i) the notice u/s 133(6) and summon u/s 131 issued to the payee remained unserved on the addresses provided by assessee; (ii) the assessee did not produce the payee for examination; (iii) the expenditure was incurred through a single bill recorded on 31.03.2013 and that too was outstanding since no payment was made; and (iv) the payee had declared a meager profit of Rs. 7,85,870/- in comparison to the receipt of Rs. 1,86,53,917/-. During assessment-proceeding although the assessee filed documents relating to the payee consisting of A/c Confirmation, Copy of Income-tax Return and Computation of Total Income and also made following submission vide letter dated 16.03.2016 which is noted by Ld. AO in para No. 4.8 of assessment-order but the Ld. AO was not satisfied with the submissions of assessee:

> *"4.8 The Ld. Counsel appeared in the office and made the submission on 16.03.2016. The Submission is reproduced below:*
>
> *"That M/s Lubecon Marketing is subcontractor of the assessee*

company and did earth work in the Guna Sheopur Site of the assessee company. Confirmation letter has already been given in the earlier submission along with Copy of ITR of Shri Yogendra Sharma Prop M/s. Lubecon Marketing. The assessee has also communicated to the sub-contractor to appear in your office or provide the information directly in your office. The assessee also deducted TDS on the account of Contract Bill. That in view of the above, the said firm M/s Lubecon Marketing did earth work for the assessee, by treating the said amount of sub-contract work as non-genuine is neither correct nor acceptable to the assessee."

14. During first-appeal, the Ld. CIT(A) considered the facts and evidences and finally deleted the disallowance by holding as under:

4.2.1 I have considered the facts of the case, plea raised by the appellant and findings of the AO. As a matter of fact the appellant has established identity of the sub-contractor with supporting evidences which has been acknowledged by the AO. The AO has neither made any independent enquiry and has alleged that a subcontractor having turnover of Rs. 1,86,53,917/- has shown profit of Rs. 8,85,867/- only which is meager amount and has paid taxes of Rs. 89,789/-. The assessment order does not have any mention on what basis it can be held that the net profit shown by the sub-contractor is very less. Further, the AO could have passed this information to the AO of the sub-contractor who could have made further rather doing so the AO has alleged the sub-contractor to be a bogus entity of the appellant company even when it is proved by the appellant beyond doubt that it is a existent company, filing regular return of income and has filed confirmation to prove genuineness of the transaction. The first reason for treating the sub-contractor as bogus entity was un-served notices u/s 133(6)/131 of the Act. The appellant to which has contended that the address provided to AO was address available with the appellant. The second reason as culled out from the assessment order is that the proprietor of M/s Lubecon marketing was not brought for examination on oath. The appellant for which has stated that it had informed M/s Lubecon Marketing to appear before the AO. Thus, the appellant has discharged its onus of proving genuineness of the payments made to sub-contractor and therefore, the AO cannot fasten the appellant to bring in person the sub-contractor for examination on oath. Once the AO has issued the notices u/s 133(6) and summons u/s 131 of the Act, the party becomes the witness of the department and the onus lies on AO to force the attendance of the third party. Similar view was taken by Hon'ble MP High Court in the case of CIT vs. Brjatiya Children Trust 225 ITR 640 (MP HC). It is also important to mention that the AO has totally failed to make any ground enquiry about the work done by the

sub-contractor. If any work against which payments were made was performed by the sub-contractor, then the AO cannot treated the payment made to be bogus.

4.2.2 In nutshell, appellant has furnished all the details in order to prove identity and genuineness of the transaction and thus, addition made by the AO amounting to Rs.1,86,53,917/- is deleted. Therefore, appeal on this ground is allowed."

15. Before us, Ld. DR relied heavily upon the assessment-order and emphasized the same observations as made by Ld. AO. Ld. DR particularly argued that the assessee had not only failed to produce the payee but also the notices issued by department also remained unserved, which clearly show that the deduction claimed by assessee is non-genuine. Ld. DR contended that the assessee has miserably failed to discharge the onus fastened upon him to prove the genuineness of expenditure. *Per contra,* Ld. AR supported the order of Ld. CIT(A). Ld. AR argued that the assessee had filed vital documents such as A/c Confirmation, Income-tax Return and Computation of Total Income of the payee during assessment-proceeding, which is very much clear from Para No. 4.4 of the assessment-order itself but, however, the Ld. AO has wrongly rejected the same by deriving self-made conclusions and presumptions. Regarding non-service of the notices u/s 133(6) / 131, the Ld. AR submitted that the assessee had provided address to the Ld. AO which was exactly same as mentioned in the Income-tax Return filed by the payee to department. Regarding non-payment to the payee against the expenditure, Ld. AR submitted that the assessee itself is also receiving payments after considerable delays and so is the case of payments to the sub-contractor and this practice is very usual in this

business which should not have been viewed otherwise. Regarding declaration of meager income by the payee, Ld. AR submitted that the Ld. AO could have verified the same from the jurisdictional assessing authority of the payee but the same was not done despite PAN-data and copy of ITR of the payee filed to Ld. AO. Ld. AR also raised a contention that in any case, the declaration of lower or higher income by the payee is neither a concern nor within the authority of the assessee to look into. Ld. AR also pointed out that the assessee had deducted TDS out of the impugned expenditure which is also a fact on record. Additionally, Ld. AR also submitted that the assessee has declared a net profit of Rs. 3,35,98,234/- on the turnover of Rs. 37,56,25,467/- giving N.P. rate of 8.94%. which is much higher than 5% net profit rate accepted by ITAT, Indore in AY 2009-10 in the case of assessee itself. Therefore, looking from that angle too, the net profit declared by the assessee is much higher and no adverse view should be taken on the claim of payment made to the sub-contractor. Ld. AR also relied upon following decisions narrated by him in Written-Submission:

> **Hon'ble Supreme Court in CIT Vs. Orissa Corporation (P) Ltd. 159 ITR 78** :
> "13. *In this case the assessee had given the names and addresses of the alleged creditors. It was in the knowledge of the Revenue that the said creditors were income-tax assessees. Their index number was in the file of the Revenue. The Revenue, apart from issuing notices under section 131 at the instance of the assessee, did not pursue the matter further. The Revenue did not examine the source of income of the said alleged creditors to find out whether they were credit-worthy or were such who could advance the alleged loans. There was no effort made to pursue the so called alleged creditors. In those circumstances, the assessee could not do any further. In the premises, if the Tribunal came to the conclusion that the assessee had discharged the burden that lay on him then it could*

not be said that such a conclusion was unreasonable or perverse or based on no evidence. If the conclusion is based on some evidence on which a conclusion could be arrived at, no question of law as such arises."

Hon'ble Jurisdictional High Court in CIT Vs. Barjatiya Children Trust 225 ITR 640:
"5. We find that the Tribunal dismissed the appeal of the Department and held as under;

"He found that in the balance-sheet the loan of Rs. 20,000 given to the assessee-trust was mentioned. Under these circumstances, the Department should not have any grievance as to violation of Rule 46A. The Income-tax Officer could have taken pains to examine the income-tax file of Smt. Urmila Agrawal but instead he chose the easier course of ordering production of the creditor which cannot be appreciated. The Assessing Officer should realise the inconveniences which an assessee faces in producing the cash creditor before him. The production of the cash creditor in person should be insisted upon only when the genuineness of the transactions cannot be established with the help of documents and the record of the Income-tax Department itself. I find no infirmity in the order of the Deputy Commissioner of Income-tax (Appeals). It is sustained."

16. We have considered rival submissions of both sides and examined the relevant facts and evidences. We observe that the assessee is engaged in the business of infrastructure projects and claimed deduction of expenditure incurred on account of sub-contractorship given to the payee for earth work in the Guna Sheopur site of assessee. We also observe that the Ld. AO has disallowed deduction claimed by assessee for certain reasons. Regarding first reason that the notices served upon the payee u/s 133(6) / 131 were returned, we observe that the assessee has initially provided one address to the Ld. AO followed by another new address and the Ld. AO served notices upon both addresses but still notices remained unserved. We observe that the new address supplied by assessee is same as mentioned by the payee in

his Income-tax Return filed to department. When it is so, it cannot be said that the assessee has supplied wrong address of payee to the AO. Regarding non-production of the payee for examination, the reply dated 16.03.2016 recorded by Ld. AO in Para No. 4.8 of assessment-order, reproduced earlier, clearly demonstrate that the assessee had asked the payee to appear in the office of AO. Thus, the assessee had done whatever it could do. Regarding non-payment to the payee, we find weightage in the submission of Ld. AR noted earlier and there is nothing unusual therein. Regarding declaration of meager profit by the payee, we find that the Ld. AO could have well taken the assistance of the jurisdictional assessing authority of the payee but certainly could not blame the assessee, if at all the profit declared by the payee is considered to be on lower side. Thus, in this factual backdrop, we observe that the case of assessee is directly covered by the view taken in the decisions cited above. Therefore, in the light of those decisions, we are of the considered view that the Ld. CIT(A) has rightly deleted the addition made by Ld. AO. As we do not find any infirmity in the action of Ld. CIT(A), we are inclined to dismiss Ground No. 2 of the Revenue.

Ground No. 3:

17. This Ground relates to the addition of Rs. 5,00,000/- made by Ld. AO on account of disallowance of various expenses and deleted by Ld. CIT(A).

18. Ld. AO has made this addition by observing and holding as under:

> *"5. Disallowance out of "various expenses":*
>
> *During the assessment-proceeding, on perusal of P&L account, it is found that the assessee has claimed Miscellaneous Expenses, Site*

Expenses and Vehicle Running & Maintenance Expenses to the tune of Rs. 17,72,696/-, Rs. 16,56,081/- and Rs. 61,09,686/- respectively. But during the verification of bills/vouchers, it is found that certain bills and vouchers are not found properly vouched, some vouchers are missing and certain vouchers of these expenses are personal in nature. There are only self-made vouchers to cater such expenses. These facts brought to the knowledge of Ld. Counsel of the assessee vide order sheet entry dated 23/02/2016. As the expenses are not fully verifiable, an adhoc addition of Rs. 5,00,000/- is hereby added back to the total income of the assessee."

19. Ld. CIT(A) delete the disallowance by observing and holding as under:

"4.3.1 I have considered the facts of the case, plea raised by the appellant and findings of the AO. The AO has failed to bring on record any such voucher which is not properly maintained. The appellant has strongly contended that it has been engaged in construction work and bills and vouchers were prepared of the actual amount/expenses made towards site expenses, miscellaneous expenses and vehicle running & maintenance expenses. It is now settled law that no adhoc disallowance can be made without pointing any specific defect in books of accounts. Similar view was taken in the case of M/s PB Shah & Co. Vs. ITO 011 ITJ 376 (ITAT Indore). Thus, the AO was not justified in making addition on pure adhoc basis. Hence the addition made by the AO amounting to Rs. 5,00,000/- is Deleted. Therefore, appeal on this ground is allowed."

20. Before us, Ld. DR supported the assessment-order as against which the Ld. AR relied upon the order of Ld. CIT(A). Ld. AR particularly argued that the Ld. AO has not cited any single instance of specific bill / voucher; that the remarks made by Ld. AO are general; and that the Ld. AO has made adhoc disallowance without any basis which is illegal. Ld. AR submitted that by now it is a settled law that no adhoc disallowance can be made by assessing authority.

21. In **DCIT-1(1), Indore Vs. Brilliant Estate Pvt. Ltd., ITA No. 349/Ind/2017 dated 13.12.2018**, Hon'ble Co-ordinate Bench of ITAT, Indore has held thus:

> *"24. We find that the assessee is a limited company and has maintained regular books of account and financial statement are duly audited and books results have not been rejected by the Brilliant Estate Pvt. Ltd. No major discrepancies have been noticed. Disallowance of Rs. 2,00,000/- has been merely made on the observation that some of the expenditure are incurred in cash and some vouchers are self-made and surprisingly there is no specific observation by the Ld. AO which could prove that the assessee has claimed the expenses with a motive to evade the tax nor any observation has been made by the Ld. AO for challenging the genuineness of the particular expenditure. In these given facts and circumstances merely making a ad-hoc disallowance of Rs. 2,00,000/- and completely disregarding the audited financial statements was certainly not justified on the part of the Ld. AO. Therefore we find no infirmity in the finding of Ld. CIT(A) deleting the disallowance of Rs. 2,00,000/- placing reliance of various judgments. In the result ground no.2 raised by the revenue stands dismissed."*

22. Thus, we observe that the case of assessee is squarely covered by the aforesaid decision of ITAT, Indore according to which adhoc addition as made by Ld. AO is not sustainable. Resultantly, we do not find any justification in the adhoc disallowance made by Ld. AO. We, therefore, countenance the view taken by Ld. CIT(A) whereby he has deleted the addition made by Ld. AO. Thus, we dismiss the Ground No. 3 of revenue.

23. **In the result, this appeal of Revenue is dismissed.**

Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 01.12.2022.

Sd/-	Sd/-
(MADHUMITA ROY)	(B.M. BIYANI)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Indore
दिनांक /Dated : 01.12.2022
Patel/Sr. PS

Copies to: *(1)* *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore

1.	Date of taking dictation	14.11.22
2.	Date of typing & draft order placed before the Dictating Member	14.11.22
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	14.11.22
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	