

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C" MUMBAI**

**BEFORE SHRI ABY T VARKEY (JUDICIAL MEMBER)  
AND  
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 2425/MUM/2021  
Assessment Year: 2012-13**

Classic Share & Stock Broking  
Services Ltd.,  
121, Radha Bhuvan, 1<sup>st</sup> floor,  
Nagindas Master Road, Fort,  
Mumbai-400023.  
**PAN No. AACCC 5745 P**  
**Appellant**

DCIT, Central Circle-7(1),  
Aayakar Bhavan, M.K. Road,  
Mumbai-400020.  
**Vs.**  
**Respondent**

Assessee by : Mr. Akash Kumar, AR  
Revenue by : Mr. P. Daniel, Special Counsel  
Date of Hearing : 02/12/2022  
Date of pronouncement : 29/12/2022

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 26.10.2021 passed by the Ld. Commissioner of Income-tax (Appeals)-49, Mumbai [in short 'the Ld. CIT(A)'] for assessment year 2012-13, raising following grounds :

- 1. The Commissioner of Income-tax (Appeals) - 49, Mumbai (hereinafter referred to as the CIT(A)) erred in upholding*



*the action of the Deputy Commissioner of Income-tax, Central Circle - 7(1), Mumbai (hereinafter referred to as the Assessing Officer) in disallowing Rs 8,24,666, being miscellaneous expenses, on the ground that the appellants have not carried out any business activity during the year under reference.*

*The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the impugned disallowance inasmuch as the CIT(A) has not correctly appreciated the facts of the case in its entirety.*

*2. The CIT(A) erred in upholding the action of the Assessing Officer in disallowing Rs 28,43,819, being business development expenses, on the ground that the appellants have not carried out any business activity during the year under reference.*

*The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the impugned disallowance inasmuch as the CIT(A) has not correctly appreciated the facts of the case in its entirety.*

2. Briefly stated, facts of the case are that the assessee did not file its return of income u/s 139 of the Income-tax Act, 1961 (in short 'the Act') for the year under consideration and therefore, the Assessing Officer after recording reasons to believe that income escaped assessment, he issued notice u/s 148 of the Act on 15.07.2014. In response, the assessee filed its return of income on



25.03.2016 declaring total loss of (-) ₹6,51,970/-. During reassessment proceedings, the Assessing Officer observed that there was no Revenue from operations and only income was shown as other income of ₹91,475/- which comprised of interest income, dividend income and other miscellaneous income. The assessee claimed expenses of ₹62,69,967/- and depreciation of ₹52,97/- determining loss of ₹6,59,970/-. According to the assessee, there was no business activity by the assessee-company in the year under consideration and therefore, he disallowed the claim of the assessee of operating other expenses of ₹62,69,967/-, in the reassessment order passed u/s 143(3) r.w.s. 147 of the Act on 30.03.2016.

2.1 On further appeal before the Ld. CIT(A), the assessee submitted that assessee company was a member of National Stock Exchange of India Ltd. (NSE) and Bombay Stock Exchange (BSE). He further submitted that Security Exchange Board of India (SEBI), *vide* order dated 04.04.2001 debarred the company for undertaking any business of stock brokers/merchant bankers. The appeal filed by the assessee before the Security Appellate Tribunal (SAT) against the aforesaid order of the SEBI was also dismissed, confirming the debarred/cancellation of certificate registration of the SEBI of the assessee company from carrying out any broking activity. The Ld. Counsel of the assessee submitted that though the broking activity remain discontinued however, there was no such order in respect of trading activity. He submitted that the assessee was having share



worth of ₹3,575/- stock in trade in the year end which could be sold in the open market and therefore, according to him it could not be said that no business was carried out during the year and he request for allowing expenses. However, the Ld. CIT(A) observed that there was no evidence in support of any trading activity carried out during the year and therefore he following the order of his predecessor in the case of sister concern of the assessee-company namely NH Securities Ltd. for Ay 2012-13 and his own order for assessment year 2013-14 and 2014-15 allowed all operating expenses except expenses under the head of business development of ₹28,43,819/- and miscellaneous expenses of ₹8,24,866/-. According to the Ld. CIT(A) these expenses were not necessary for maintaining the status of the company and therefore same were not allowable. Aggrieved with the disallowance sustained in respect of miscellaneous expenses and business development expenses, the assessee is in appeal before the Income-tax Appellate Tribunal (ITAT) raising, the grounds as reproduced above.

3. Before us, the Ld. Counsel of the assessee has filed a Paper Book containing pages 1 to 42.

4. We have heard rival submissions of the parties on the issue-in-dispute and perused the relevant material on record. In ground No. 1, the assessee has challenged disallowance of miscellaneous expenses of at ₹8,24,668/-. We find that the assessee is one of the group company of Mr. Ketan Parikh wherein the SEBI barred Shri



Ketan Parikh and broking firms which were controlled by and connected with them, including assessee company from undertaking any fresh business as stock broker and merchant banker vide order dated 04.04.2001 and thereafter broking registration of the company was also cancelled by the SEBI vide order dated 10.03.2004. The cancellation of all the Registratrion of the assessee company was also upheld by the Securities Appellate Tribunal vide order dated 04.05.2007. This restriction of the broking activity of the asessee company continued in the year under consideration also. The profit and loss account of the assessee is available on page 32 of the Paper Book. On perusal of the profit and loss account, it is evident that there is no Revenue or earning from operations in the previous year corresponding to the assessment year as well as in earlier assessment year. The only income which has been shown is other income which consist of interest on fixed deposit of ₹45,71,475/- dividend of ₹5,20,000/- and miscellaneous income of ₹80,00,000/-. The Assessing Officer has disallowed the entire operating expenses of ₹62,69,967/- holding that there was no business activity by the assessee company. However, the Ld. CIT(A) has allowed the expenses for maintaining the corporate status of the company and sustained disallowance of expenses under the head 'miscellaneous expenses' and 'business development expenses'.

5. Before us, the Ld. Counsel of the assessee has filed a detail of the miscellaneous expenses which is as under :



<b>Miscellaneous expenses ₹8,24,666</b>	
General expenses	564
Demat charges	1,103
Insurance expenses	644
For Office premises	
Motor car expense	7,60,355
Amount paid to Daulat Automobiles	
For petrol and parking charges	
Donation	62,000
Amount paid to ISKON	
<b>Total</b>	<b>8,24,666</b>

5.1 During the course of hearing, the Ld. Counsel of the assessee was asked to substantiate these expenses by way of relevant voucher. However, no vouchers in support of claim were filed by him before us. On perusal of expenses, we find that majority of the expenses pertains to motor car expenses and donation. In absence of any vouchers in support of expenses, the claim of the assessee cannot be allowed. Accordingly, we uphold the disallowance sustained by the Ld. CIT(A).

6. The ground No. 2 of the appeal relates to disallowance of business development expenses of ₹28,43,819/-. Before us, the Ld. Counsel of the assessee submitted that mainly expenses pertains to hotels and credit cards. The assessee has filed ledger account of the business development expenses along with supporting vouchers which are available on page 2 to page 24 of the Paper Book. The Ld. Counsel submitted that these expenses were incurred for meeting in relation to the ongoing litigations etc. However, no evidence in support of claim are filed. On perusal of the vouchers, we find that expenses mostly for dining in Five Star Hotels. The assessee has



failed to establish that these expenses were incurred wholly and exclusively for the purpose of business of the assessee. In the light of the observation that no income from either trading or broking was shown in the profit and loss account, we uphold the disallowance sustained by the Ld. CIT(A).

7. Before us, the Ld. Counsel of the assessee brought our attention to the order of the Tribunal in ITA No. 2424/M/2021 for the assessment year 2011-12 where the 'SMC' Bench of the Tribunal has restored the disallowance of identical expenses to the file of the Ld. Assessing Officer. We find that in the year under consideration, details of the expenses being made available before us, there was no requirement of restoring back to the file of the Assessing Officer and therefore, this contention of the Ld. Counsel of the assessee was accordingly rejected.

7.1 In the result, both the ground No. 1 & 2 of the appeal of the assessee are dismissed.

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

**Order pronounced in the open Court/under Rule 34(4) of the ITAT Rules, 1963 on 29/12/2022.**

**Sd/-**  
**(ABY T VARKEY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai;  
Dated: 29/12/2022



Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Sr. Private Secretary)  
**ITAT, Mumbai**