

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, JUDICIAL MEMBER AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.56/Bang/2023
Assessment Year : 2018-19

M/s. Prakalpa Automotives Private Limited, 4A, Prakalpa, Ashok Leyland, Beside Gurudatt Bhavan, Hubli – 580 021. PAN : AAICP 2977 N	Vs.	The Income Tax Officer, CPC, Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Prabhakar Rao, Advocate
Revenue by	:	Shri. Gudimella VP Pavan Kumar, JCIT(DR)(ITAT), Bengaluru

Date of hearing	:	04.05.2023
Date of Pronouncement	:	08.05.2023

ORDER

Per George George K, Judicial Member :

This appeal at the instance of the assessee is directed against the CIT(A)’s order dated 07.12.2022. The relevant Assessment Year is 2018-19.

2. The brief facts of the case are as follows:

Assessee is a company. It is an authorized dealer for sales and services of vehicles manufactured by M/s. Ashok Leyland Ltd. For Assessment Year 2018-19, the return of income was filed on 02.10.2018 declaring total income of Rs.48,49,430/-. The assessment was selected for scrutiny and notice under section 143(2) of the Income Tax Act, 1961 (hereinafter called ‘the Act’) was

issued on 23.09.2019. The assessment under section 143(3) r.w.s. 144B of the Act was completed by Order dated 03.09.2021. In the said Assessment Order, the AO had made the following additions :

<i>On account of Time Deposits (as discussed in para no.6.2)</i>	<i>Rs.47,35,590/-</i>
<i>On account of Purchase of Mutual fund units (as discussed in para no.6.3)</i>	<i>Rs.24,08,316/-</i>
<i>On account of Other Direct Expenses (as discussed in para no.7.1)</i>	<i>Rs.53,99,903/-</i>
<i>On account of Rates & Taxes as discussed in para no.7.2)</i>	<i>Rs.1,225,038/-</i>

3. Aggrieved by the assessment completed, the assessee filed an appeal before the First Appellate Authority. The CIT(A) disposed off the appeal vide impugned order dated 07.12.2022. The appeal of the assessee was dismissed and the additions / disallowance made by the AO was confirmed by the CIT(A) primarily for the reason that assessee was not able to provide any documentary evidence for such additions / disallowances made by the AO.

4. Aggrieved by the order of the CIT(A), assessee has filed the present appeal before the Tribunal. The assessee has filed revised grounds by letter dated 08.04.2023. The revised grounds raised read as follows :

“1. Conclusion of Appellate Authority on "Failure of Justification of Cash Deposits made in Bank of India to the tune of Rs. 99,44,600/- along with sources of cash deposits" is not acceptable.

Out of Rs. 99,44,600/-, the Cash Receipts from Sale of Vehicles works to around Rs. 28 Lakhs and the cash receipts from sale of spare parts and

accessories around Rs. 71 Lakhs. The Bank Statement as well as Cash Book clearly shows the transactions against which the amount was collected. This has been explained to the Assessing Officer/Appellate Authority. This justifies our claim that we do have source of cash deposits into the Bank.

2. Conclusion of Appellate Authority about Failure to show the Details of Time Deposits made in State bank of India to the tune of Rs.1,25,00,000/- along with sources of investments is not correct.

The Term Deposit of Rs. 1.25 Crores was made in the Financial Year 2016-17. Our Opening Balance of Term Deposits with State Bank of India as at 01.04.2016 was Rs. 10 Lakhs. We have made additional Deposit of Rs. 1.25 Crores in the year 2016-17 to meet the Bank requirement of keeping this amount as Collateral Security against the EDFS Loan (Financing Scheme) Borrowed from State Bank of India (SBI). The source of this amount was out of the Customers' collection which was against the Sale of Vehicles to Customers. This clearly shows that, we do have sources for the investment made. If required, we can provide the customer details from whom the amount was received along with dates and the same can be linked with the Term Deposit made. So, the closing Balance on 31.03.2017 was Rs. 1.35 Crores. The provision made in the books towards interest accrued on 31.03.2018 was Rs. 7 Lakhs. So, the closing Balance of Term Deposits in SBI as at 31.03.2018 is Rs. 1.32 Crores (Rs. 0.10 Cr + Rs. 1.25 Cr + 0.07 = Rs. 1.32 Cr).

3. Conclusion of Appellate Authority regarding Details of purchase of SBI mutual fund units to the tune of Rs.24,08,316/- along with sources of investments is not correct.

As per the SBI Mutual Fund Ledger in the books of Accounts, the opening Balance as on 01.04.2017 is Rs. NIL. During the year the Net investment made in the Fund was Rs. 24.40 Lakhs. From the Books maintained and also the Bank Statement, the investment is made was only for a short duration, namely for only one month. This is kept to meet the short term expenses like salaries and other office expenses. The source is out of the proceeds from sale of spare parts and accessories and service income which can be demonstrated from the books of accounts kept. So the contention of the Authority that, the source is not from sale of spare parts and service income is not acceptable.

4. Conclusion of Appellate Authority that sufficient vouchers not produced for Addition on account of Other Direct Expenses of Rs. 53,99,903/- is not correct.

Our Turnover for the Financial Year 2016-17 was Rs. 54.23 Crores and the Turnover for the Financial Year 2017-18 was Rs. 101.88 Crores. This clearly shows that, the Company has achieved a growth of Rs. 44.65 Crores, which works out to around 88% growth as compared to last year. Accordingly the Direct expenses have increased. Since the vouchers are voluminous, it is difficult to send the vouchers electronically. But the authority has concluded without considering the practical difficulty and so, he has arrived at the conclusion on assumption basis. Majority of the payments are done through Banking channel. If required, these can be produced physically. Also, it should be noted that, the books kept by the Company are audited by the Statutory Auditor and the audited Financials have been submitted to the Appellate Authority. The Appellate Authority, without considering the actual Direct expenses, has disallowed the expenditure by comparing the Direct expenses percentage with Turnover which is not acceptable.

5. Conclusion of Appellate Authority, that Assessee has claimed expenses of Rs. 2,10,491/- in respect of Rates and Taxes and filed ledger only for Rs. 85,453/- is not correct.

In justification for the above, we want to state that, the breakup for the Rates and Taxes amount of Rs. 2,10,491/- is available with us and the authority has allowed only Rs. 85,453/- and has disallowed the balance amount stating that the Ledgers for the balance is not filed. The break up of the amount is shown as under and the explanation for the expense is given in Remarks for which ledger A/c is available:

<i>Break up of Rates and Taxes</i>	<i>Amount</i>	<i>Remarks</i>
<i>Rates and Taxes as per Ledger</i>	<i>Rs. 85,453/-</i>	<i>Ledger A/c submitted</i>
<i>Registration and Handling Charges</i>	<i>Rs. 72,930/-</i>	<i>Passing fees paid to Consultant/RTO Agent for the vehicles</i>

<i>Registration and Other Expenses</i>	<i>Rs. 23,961/-</i>	<i>Purchase of Bond papers and other license fees and Digital Signature Certificate fees.</i>
<i>Rates and Taxes another Ledger</i>	<i>Rs. 15,100/-</i>	<i>Expenses towards Pollution</i>
<i>Swachh Bharat Cess</i>	<i>Rs. 6,161/-</i>	<i>Balance in SBC written off (Rs. 5993+ Rs.168 = Rs. 6,161)</i>
<i>Pollution Control Consent Fees</i>	<i>Rs. 6,384/-</i>	<i>Consultancy charges for Pollution Control Consent.</i>
<i>Miscellaneous Expenses</i>	<i>Rs. 501/-</i>	<i>Other Expenses</i>
<i>TOTAL</i>	<i>Rs. 2,10,490/-</i>	

The above expenses are consolidated and shown under Rates and Taxes as per audited Financial Statements.”

5. The learned AR was asked whether the above grounds arise out of the additions made by the AO. The learned AR submitted as regards the ground relating to addition of Rs.99,44,600/- (source of cash deposits), it was a mistaken ground taken since there was no such additions made by the AO. We also notice that in ground No.2, the AO has not made an addition of Rs.1,25,00,000/- but only Rs.47,35,590/-. The learned AR submitted that assessee was not in a position to furnish the documentary evidence in support of its case neither before AO nor CIT(A), hence, it was prayed that in the interest of justice and equity, the matter may be remanded to the AO.

6. The learned DR on the other hand supported the orders of the AO and the CIT(A).

7. We have heard the rival submissions and perused the material on record. As mentioned earlier, the grounds raised by the assessee is not proper. The

ground relating to cash deposits amounting to Rs.99,44,600/- was not a subject matter of addition by the AO. As regards the source of time deposits is concerned, it is claimed that the investments are made prior to the relevant Assessment Year and the same is out of receipts from the customers. It is submitted that the assessee can provide the customers details from whom the amount was received along with the dates and same can be linked with the term deposits made. Similar contention is raised with reference to the addition made with regard to the SBI mutual funds. As regards the addition of Rs.53,99,903/-, it was contended that assessee's turnover had substantially increased during the relevant Financial Year and accordingly the direct expenses have increased. Since the vouchers are voluminous, it was not physically handed over. It was stated that the books of accounts of the assessee is audited and the audited financials have been submitted before the AO and the CIT(A).

8. After considering the arguments from both the sides, we are of the view that the additions / disallowances have been confirmed by the CIT(A) primarily for the reason that there was no adequate documentary evidence submitted neither during the course of assessment proceedings nor during the course of appellate proceedings. Therefore, in the interest of justice and equity, we are of the view that one more opportunity should be provided to the assessee for a proper representation of its case. Accordingly, the issues raised in this appeal are restored to the files of the AO. The AO is directed to afford reasonable opportunity to the assessee to present its case. The assessee is directed not to seek unnecessary adjournment and shall cooperate with the Revenue in filing the written submissions on time. It is ordered accordingly.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Judicial Member

Bangalore.

Dated: 08.05.2023.

/NS/*

Copy to:

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|-------------------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.