

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT

[CONDUCTED THROUGH VIRTUAL COURT]

**Before: Shri Waseem Ahmed, Accountant Member
And Shri Siddhartha Nautiyal, Judicial Member**

**ITA No. 456/Rjt/2018
Assessment Year 2015-16**

M/s. Aarvee International, C-701, the Imperial Heights, 150 Feet Ring Road, Opp. Big Bazar, Rajkot PAN: AAWFA6871F (Appellant)	Vs	The DCIT, Circle-2(1), Rajkot (Respondent)
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**Assessee by: Shri Rajendra Singhal, A.R.
Revenue by: Shri B.D. Gupta, Sr. D.R.**

Date of hearing : 09-05-2023
Date of pronouncement : 16-05-2023

आदेश/ORDER

PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-

This assessee's appeal for A.Y. 2015-16, arises from order of the CIT(A)-2, Rajkot dated 08-10-2018, in proceedings under section 250 of the Income Tax Act, 1961; in short "the Act".

2. The assessee has taken the following grounds of appeal:

“We state the grounds of appeal as under are without prejudice to one another. These are alternate grounds and one ground may be treated as independent of others.

1.The Assessment Order under section 144 of the Act, is bad in law as well as facts.

2.The Order of the learned Commissioner of Income Tax (Appeals) is bad in law as well as facts.

3. The learned Commissioner of Income Tax (Appeals) erred on facts as well as in law by in confirming the addition in respect of undisclosed interest income received during the year amounting to Rs.6,78,382/-u/s 68 of the IT Act.

4.The learned Commissioner of Income Tax (Appeals) erred on facts as well as in law by in confirming the disallowance of Rs.42,70,152/- out of various expenses amounting to Rs.4,27,01,527/- being 10% of the same.

5. The learned Commissioner of Income Tax (Appeals) erred on facts as well as in law in confirming the charging of interest u/s. 234A, 234B, and 234C of the Act, when addition itself not sustainable.

Your Honour's appellant craves leave to add, amend, alter or withdraw any one or more grounds of appeal on/or before hearing of appeal.”

3. The brief facts of the case are that the assessing officer during the course of assessment proceedings gave several opportunities of hearing to the assessee. However, none appeared on behalf of the assessee despite several opportunities. Accordingly, the assessing officer made an addition of ₹ 6,78,382/- on account of undisclosed interest income and further disallowed expenses amounting to ₹ 42,70,152/- being 10% of the expenses claimed by the assessee in its profit and loss account.

4. The assessee filed appeal against the aforesaid order, before Ld. CIT(Appeals). The Ld. CIT(Appeals) issued several notices of hearing to the assessee, however, none appeared on behalf of the assessee to file relevant details in support of its appeal. Accordingly, the Ld. CIT(Appeals) dismissed

the appeal of the assessee on account of non-prosecution and confirmed the additions made by the assessing officer. While dismissing the assessee's appeal, the Ld. CIT(Appeals) made the following observations:

“Coming to the merits of addition I find that the addition made by A.O. u/s 68 and adhoc disallowance out of expenses, in absence of any details from assessee is justified.

Thus on the merits also I find that the contested additions are justified. The additions are therefore confirmed on merits as well.

4. For statistical purpose, the appeal of the assessee is to be treated as dismissed.”

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(Appeals) dismissing the appeal of the assessee on account of non-prosecution. Before us, the counsel for the assessee submitted that the additions have been confirmed by the Ld. CIT(Appeals) are purely on ad hoc basis, and therefore, the same are not liable to be sustained. The counsel for the assessee submitted before us that if given an opportunity, the assessee would be able to produce substantial documentary evidence in support of deletion of the aforesaid additions. Accordingly, the counsel for the assessee submitted that the matter may be set aside to the file of the assessing officer for *de novo* consideration, after giving assessee due opportunity of hearing to present its case on merits. Further, the counsel for the assessee also submitted/assured us that there shall be no further non-compliance on the part of the assessee before the assessing officer. The Ld. DR has also not objected to the matter being restored to the file of assessing officer, in the interest of justice.

6. Accordingly, the matter is being restored to the file of assessing officer for *de novo* consideration, after giving due opportunity of hearing to the assessee to present his case on merits. We further observed that during the course of proceedings before assessing officer and Ld. CIT(Appeals), the assessee has been largely unresponsive to notices issued by the Department. In case there is further non-cooperation on part of the assessee before the assessing officer, the assessing officer is at liberty to pass order on the basis of materials available on record, in accordance with law.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 16-05-2023

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad : Dated 16/05/2023

Sd/-
(SIDHHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,
Income Tax Appellate Tribunal,
Rajkot