

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
'B' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President  
&  
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 14/KOL/2023  
Assessment Year: 2014-2015**

***M/s. Panchiram Nahata,.....Appellant  
1<sup>st</sup> Floor, PRN House,  
177, Mahatma Gandhi Road,  
Kolkata-700007  
[PAN: AAHFP1071D]***

***-Vs.-***

***Income Tax Officer,.....Respondent  
Circle-44, Kolkata,  
3, Government Place (West),  
Kolkata-700001***

**Appearances by:**

*Shri Ravi Tulsian, F.C.A., appeared on behalf of the assessee*

*Sri P.P. Barman, Addl. CIT, Sr. D.R., appeared on behalf of the Revenue*

Date of concluding the hearing : May 03, 2023

Date of pronouncing the order : July 10, 2023

**O R D E R**

**Per Shri Rajpal Yadav, Vice-President (KZ):-**

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 22<sup>nd</sup> December, 2022 passed for A.Y. 2014-15.

2. In the first ground of appeal, the assessee has pleaded that the ld. CIT(Appeals) has erred in confirming the addition of Rs.10,38,950/-.

3. Brief facts of the case are that the assessee-firm is engaged in the business of finance as a commission agent, trading in shares and investment in Mutual Funds. It has filed its return of income on 30.09.2014 declaring total income of Rs.32,52,238/-. The case of the assessee was selected for scrutiny assessment and a notice under section 143(2) was given. The ld. Assessing Officer has observed that the firm has debited interest expenditure of Rs.3,20,38,862/- against unsecured loan taken. He further observed that the assessee has shown interest income of Rs.2,38,36,768/- against loan advanced by it. The ld. Assessing Officer thereafter reproduced the details of eight entities to whom the assessee has given loan between 01.04.2013 and 31.03.2014 on which interest rate was determined but not charged. Accordingly ld. Assessing Officer has construed earning of notional interest and worked out an interest income of Rs.10,38,950/-.

4. Appeal to the ld. CIT(Appeals) did not bring any relief to the assessee.

5. Before us, Id. Counsel for the assessee filed written submissions running into 20 pages. In these written submissions, he has narrated the background of loan given to all these eight entities. The first entity to whom loan was given by the assessee and narrated by the Id. Assessing Officer in the assessment order is M/s. Kabra Brothers. According to the Id. Counsel for the assessee, the loan was given from 28.10.2010 upto 31.03.2014. He has placed on record copies of the ledger account, which are available on pages 26 to 28 of the paper book. According to the assessee, this Concern has been paying interest but all of a sudden it stopped paying interest and the assessee has pressed upon it. The concern has issued a cheque on 14.04.2013 for a sum of Rs.15,00,000/- but the cheque was bounced. Hence, a legal notice was issued under section 138(b) of the Negotiable Instruments Act, 1881. Ultimately no principal amount has been returned nor any interest has been paid. By and large, the facts with regard to other creditors are also similar. The loans were advanced to them prior to 31<sup>st</sup> March, 2009 or 2010. These concerns were making the payment of interest prior to the accounting year relevant to this assessment year. But in this year, they have not paid the interest nor returned the money. Thus according to the assessee, even its principal was at a stake and, therefore, it did not account for the interest income from these loans.

6. On the other hand, ld. D.R. relied upon the order of the ld. Assessing Officer.

7. On due consideration of the facts and circumstances above, the assessee has demonstrated that it is in the business of finance. It has earned interest income on the loans advanced by it at Rs.2.38 crores during this activity, there could be certain situation, where it failed to receive interest from all its loanees. The ld. Assessing Officer ought to have not over emphasized about the conduct of the assessee for not charging the interest. It is just a normal business incident and in the absence of any interest income, according to the assessee, the notional interest income cannot be estimated for making the disallowance out of interest expenditure. We allow this ground of appeal and delete the addition.

8. In Ground No. 2, the assessee has challenged the disallowance of Rs.4,846/-, which was disallowed with the help of section 14A read with Rule 8D(2) of the Income Tax Rules. The assessee did not press this ground of appeal, hence rejected.

9. Grounds No. 3, 4 & 5 represent *ad hoc* disallowance out of motor car expenses, telephone expenses and

garden visit expenses. The finding of the Id. Assessing Officer on these grounds reads as under:-

*“3.6. Further, on going through the Profit & Loss account, it is noted that assessee has claimed the following expenses:-*

S.No.	Expenses	Amount
a)	Garden visit expense	Rs. 1,85,185/-
b)	General Expense	Rs. 67871/-
	Total	Rs.2,53,056/-

*But no proper bills/vouchers have been maintained in respect of these expenses. Most of the payments have been made through self made vouchers without any addresses of the recipients. Therefore, the expenses are not fully verifiable. In view of above, 10% such expense i.e. Rs.25,305/- [i.e 10% of Rs.2,53,056/-] is disallowed and added to the total income of the assessee for the previous year relevant to A.Y 2014-15.*

*[Addition: Rs.25,305/-]*

*3.7. The assessee has claimed following expenditure as business expenditures the Profit & Loss Accounts for the A.Y.2014-15:-*

SI No	Depreciation	Amount
1.	Motor car expenses	Rs.460966/-
2.	Motor car Insurance	Rs. 18915/-
	Total	Rs.4,79,881/-

*During the course of assessment proceedings, the A/R of the assessee firm was asked to furnish logbook in order to verify the business usage of car. Since, the assessee has failed to furnish log book and also no explanation was forthcoming from A/R of assessee, the motor car expense is not fully verifiable and also personal use of cars cannot be ruled out altogether. Therefore, 1/5<sup>th</sup> of such expenses as well as depreciation on car i.e. Rs.95,976/- is disallowed and added to the total income of the assessee for the previous year relevant to A.Y. 2014-15.*

*[Addition Rs.95,976/-]*

*3.8. In the Profit and loss accounts for the relevant period, the assessee has debited Rs. 1,01,749/- on the account of Telephone Charges. As the element of personal use of telephone cannot be ruled out, 20% such expense i.e.*

*Rs.20,350/- [i.e 20% of Rs. 1,01,749/-] is disallowed and added to the total income of the assessee for the previous year relevant to A.Y 2014-15. [Addition: Rs.20,350/-]”.*

10. Appeal to the ld. CIT(Appeals) did not bring any relief to the assessee.

11. Ld. Counsel for the assessee submitted that the ld. Assessing Officer failed to pinpoint errors in the accounts. He just made a sweeping observation that possibility of personal user of car facility and telephone facility cannot be ruled out. The assessee has submitted the complete details.

12. On the other hand, ld. D.R. relied upon the order of the ld. Assessing Officer.

13. We have duly considered the rival contentions and gone through the record carefully. The first item of expenditure claimed by the assessee is expenditure incurred on garden visit etc. We find that the ld. Assessing Officer has disallowed 10% of such expenditure on the ground that certain payments have been made through self-made vouchers without any addresses of the recipients. It has been pleaded by the assessee that it is providing consultancy services to various tea estates and provides its services to such tea estates with regard to tea plantation, planning, management, quality control in manufacturing, tea

tasting etc. It has shown a receipt at Rs.53,47,763 towards as commission for providing such services. The ld. Assessing Officer has unnecessarily disbelieved the vouchers of petty expenses for adopting a method of disallowing expenditure on *ad hoc* basis. He has not specifically pointed out which vouchers were doubtful and how the nature of expenses could be construed as not related to the business. Therefore, the findings of the ld. Assessing Officer is not sustainable. Disallowance out of the first head of expenditure is deleted.

14. As far as disallowance out of car expenditure is concerned, that assessee-company has four cars, which are used for the purpose of the business, namely Swift Desire, Tata Manza, Maruti Suzuki, Getz GLS. It has pointed out which car is being used by which partners or the employees. We find that the assessee has been maintaining details and ld. Assessing Officer has not pinpointed any specific thing except observing that log-book is not maintained. It is to be appreciated that nowadays facility of small cars is not a luxury, rather a necessity and it is quite difficult to maintain log-book by a businessman. The ld. Assessing Officer ought to have not devoted much energy on such type of petty issues.

15. Similarly we are of the view that there is no disallowance out of telephone charges because it is not

the era of old days when thirty rupees was required to pay by talking on STD for a minute. Every individual is having mobile phone number and the data is quite cheap. Therefore, this type of disallowance is not sustainable. We allow all these three grounds of appeal and delete the disallowances.

**16. In the result, the appeal of the assessee is partly allowed.**

Order pronounced in the open Court on July 10, 2023.

**Sd/-  
(Rajesh Kumar)  
Accountant Member**

**Sd/-  
(Rajpal Yadav)  
Vice-President(KZ)**

***Kolkata, the 10<sup>th</sup> day of July, 2023***

- Copies to :*
- (1) M/s. Panchiram Nahata,  
1<sup>st</sup> Floor, PRN House,  
177, Mahatma Gandhi Road, Kolkata-700007*
  - (2) Income Tax Officer,  
Circle-44, Kolkata,  
3, Government Place (West), Kolkata-700001*
  - (3) Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre (NFAC), Delhi*
  - (4) Commissioner of Income Tax ,*
  - (5) The Departmental Representative*
  - (6) Guard File*
- TRUE COPY**

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**