

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

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 345/Ind/2022
(Assessment Year:2017-18)

Kishan Mundra 108, Shalimar Corporate Centre 8-B, South Tukoganj Indore	Vs.	ITO-3(2) Indore
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: ABZPM 1576 H		
Assessee by	Shri Ashish Porwal & N.D. Patwa, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	19.07.2023	
Date of Pronouncement	21 .07.2023	

ORDER

Per Vijay Pal Rao, JM:

This appeal by the assessee is directed against the order dated 06.09.2022 of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi for Assessment Year 2017-18. The assessee has raised following grounds of appeal:

“On the facts and the circumstances of the case:

- 1. That the Id CIT(A), NFAC was not justified in confirming the assessment order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.*

2. The Id CIT(A), NFAC was not justified in providing sufficient opportunity to the appellant to furnish document or reply in support of the claim and confirming the addition.

3. The Id CIT(A), NFAC was not justified in disallowing the expenses amounting to Rs. 30,64,307/- u/s. 57 of the Income Tax Act, 1961. (Tax Effect- Rs. 7,66,000/-)”

2. At the time of hearing Ld. AR of the assessee has submitted that Ld. CIT(A) has passed impugned order *ex-parte* for want of supporting evidence in respect of claim of expenditure u/s 57 of the Act. He has further submitted that the AO has disallowed the claim of interest expenditure against the income from other sources for want of supporting evidence and therefore, the assessee wanted to produce evidence in support of the said claim before the Ld. CIT(A) however the Ld. CIT(A) has also passed impugned order *ex -parte*. Thus, the Ld. AR has pleaded that the assessee may be granted one more opportunity to present his case before the Ld. CIT(A). He has also filed an application for admission of additional evidences with additional evidence sought to be produced before the tribunal which is relevant for deciding the issue of claim of expenditure and therefore, the same may be admitted.

3. On the other hand, ld. DR has fairly submitted that since the claim of the assessee was disallowed by the AO for want of evidence and assessee even did not file any evidence before the Ld. CIT(A) therefore, it would be proper if matter is remanded to the record of the AO for verification and examination of the evidence to be filed by the assessee.

4. Having considered rival submission as well as relevant material on record we note that the only issue arises in this appeal is regarding disallowance of interest expenditure against the income from other sources which was disallowed by the AO for want of supporting evidence. The appeal filed by the assessee was also dismissed by the ld. CIT(A) due to non-appearance and non-furnishing of supporting evidence. Now the assessee has filed the additional evidence running into 162 pages. Since this additional evidence is filed first time before this tribunal and had not been examined by the AO as well as by the Ld. CIT(A) therefore, in the

facts and circumstances of the case we are of the considered opinion that the additional evidence filed by the assessee shall be examined at the level of the AO. Accordingly, the impugned order of the Ld. CIT(A) is set aside and matter is remanded to the record of the AO for deciding the issue of claim of deduction u/s 57 of the Act after verification and examination of the additional evidence filed by the assessee as well as after giving opportunity of hearing to the assessee.

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

Order in pronounced in Open Court on 21/ 07/2023.

Sd/-

(B.M. BIYANI)
Accountant Member

Sd/-

(VIJAY PAL RAO)
Judicial Member

Indore, 21 .07.2023

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*