

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, JABALPUR
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 112/Jab/2023

(A.Y: 2018-19)

Vijay Oil Mills Co, Maganj Ward No. 4, Damoh-470661, Madhya Pradesh.	Vs.	ITO 1(1), Damoh Madhya Pradesh.
PAN/GIR No. : AACFV8920C		
Appellant	..	Respondent

Assessee by :	Shri.Dhiraj Ghai. FCA.AR
Respondentby :	Shri.Rajesh Kumar.Sr. DR

Date of Hearing	22.09.2023
Date of Pronouncement	12.10.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre (NFAC) Delhi/CIT(A) passed u/sec 143(1) and U/sec 250 of the Act. The assessee has raised the following grounds of appeal:

1. *That on the facts and the circumstances of the case Hon'ble CIT(A) erred in treating rental income of Rs. 5,82,000/- as business income by stating that considered 5,82,000/- wrongly rental income of as to business income and deducted collection etc expenses of Rs. 1,82,009/- so as to arrive at business income of Rs 3,99,991/-. CIT(A) also*

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erred in rejecting continuously followed accounting policy (and accepted by revenue) of reducing business income by Rs 5,82,000/- so as to arrive at NIL business income and to treat income of Rs 5,82,000/- to be rental income. Accordingly disallowance of Rs. 1,82,009/- being deduction from rental income under section 24(a) be allowed as expenses /deduction and correct rental income be derived at.

2. That on the facts and the circumstances of the case the CPC intimation under section 143(1) erred in dealing with matters which are disputable in nature and in lieu of decision of Hon'ble ITAT Bengalaru in case of M/s Kale Budde Logistics Hubbalie vs DCIT CPC, the CPC intimation u/s 143(1) against the law and henceforth disallowance of Rs. 1,82,009/- being deduction from rental income under section 24(a) be allowed as expenses /deduction and correct rental income be derived at.

3. Without prejudice to ground 1 and 2 above, the Hon'ble CIT(A) erred in not in not allowing collection and allied expenses of Rs. 41,383/- as claimed in computation of income as to be deduction from business income. Hence Rs. 41,383/- may kindly be allowed as expenditure to the business income.

4. Without prejudice to ground 1 and 2 above and on the facts and the circumstances of the case the Hon'ble CIT(A) erred in considering rental income of Rs 5,82,000/- as to be business income despite of the fact that no depreciation has been claimed on the building from which rent is earned and 26 AS duly shows TDs deduction as to be under rental income only. Hence depreciation may kindly be allowed as expenditure to the business income.

5. The appellant craves leave to add or amend any ground of the appeal.

2. The brief facts of the case are that, the assessee is a partnership firm and derives income from house property and income from business. The assessee has filed the return of income for the A.Y 2018-19 on 09-07-2018 disclosing a total income of Rs.4,01,990/-.The return of income was processed u/s 143(1) of the Act with the addition of Rs.5,82,000/- under income from business and the total income was determined at Rs.9,83,990/- vide order dated 9-08-2019.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A).Whereas the CIT(A) has considered the grounds of appeal, submissions of the assessee and findings of the AO and has confirmed the action of the A.O and dismissed the assessee appeal. Aggrieved with the CIT(A) order, the assessee has filed an appeal before the Honble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in not considering the factual aspects and erred in treating the rental income as business income credited to the Profit & Loss account. Further the CIT(A) has erred in not considering the accounting policy/system followed by the assessee, in computing the total income,

were the assessee has reduced the rental income credited to the profit & loss and has disclosed under Income from House Property and claimed deduction U/sec24 of the Act. Further it was accepted by the revenue in the earlier years and subsequent years and such adjustments in the order U/sec143(1) of the Act is a debatable issue. The Ld.AR substantiated the submissions with the acknowledgement copies of the return of income filed for the earlier years and prayed for allowing the assessee appeal. Per Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole disputed issue envisaged by the Ld. AR that the CIT(A) has erred in sustaining the action of the AO without considering the facts that the assessee has disclosed in the financial statements rental income from the house property credited to profit and loss account and whereas in the computation of income the assessee has reduced from the income from business and disclosed separately under income from house property and claimed deduction u/s 24(a) of the Act. Further, such system of disclosure was accepted by the revenue from the earlier years and adjustments in the order U/sec143(1) of the Act is a debatable issue. The Ld. AR demonstrated the

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Acknowledgement of ITR-V filed for A.Y 2015-16, 2016-17 & 2017-18 along with the computation of income disclosing the rental income under "Income From house Property". Further the Ld.AR in respect of A.Y 2017-18 has referred to the order U/sec 143(1) of the dated 31-05-2018 accepting the rental income under the "Reporting Head"- Income From House Property. Prima facie, we find there is no dispute on the disclosure and the revenue has been accepting consistent accounting system adopted by the assessee. Accordingly, we considering the facts and circumstances, set-aside the order of the CIT(A) and direct the assessing officer to delete the addition and allow the grounds of appeal in favour of the assessee.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced under Rule 34(4) of the Income Tax Appellate Tribunal Rules, 1963.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumba Dated 12.10.2023
KRK, PS

Copy of the Order forwarded to :

1. The Appellant

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2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

आदेशानुसार / BY ORDER,

सत्यापित प्रति //True Copy//

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(Asst. Registrar)
ITAT, Jabalpur