



IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.2800/MUM/2023

Assessment Year: 2017-18

Gurukrupa Hospital and
Polyclinic
1st Floor, Savitiri Apt., Opp.
Kashi Bhavan
B.P. Road, Bhayander East
Thane
(Appellant)

v. Central Circle 3
Thane

(Respondent)

PAN No.AAMFG1305Q

| | | | |
|------------------------------|------------------------------------|------------|--|
| Assessee by: | Shri Bharat Kumar, A.R. | | |
| Revenue by: | Shri (Dr.) Kishore Dhule, CIT D.R. | | |
| Date of hearing | : | 26.09.2023 | |
| Date of pronouncement | : | 27.10.2023 | |

ORDER

PER PRASHAN MAHARISHI, AM:

01. This appeal is filed by Gurukrupa Hospital and Polyclinic (Assessee-appellant) against the appellate order of The Commissioner Of Income Tax, Pune-11 (Learned CIT-A) for assessment year 2017-18 on 14/7/2023, wherein the appeal of the assessee against the assessment order passed under section 143(3) of the Income Tax Act, 1961(the Act) dated 17/12/2019 by the Assistant Commissioner of Income Tax, Circle 2, Thane (Learned Assessing Officer) was dismissed.

02. The assessee aggrieved has preferred an appeal raising the following two grounds:
1. On the facts and circumstances of the case in law, The Ld. CIT (A) has erred confirming addition of Rs. 19,26,634/- without making any independent verification of impounded documents lying with Assessing officer.
 - 1a. On the facts and circumstances of the case in law, The Ld. CIT (A) has erred in confirming stand of Ld. A.O. on account of rejection of Books of accounts u/s 145(3).
 2. The assessee craves leave to add, alter or amend the existing grounds of appeal on or before the date of hearing.
03. The assessee is a partnership firm engaged in the profession of Hospital. It filed its return of income on 2/11/2017 at a total income of Rs.1,43,61,970/-.
04. A survey under section 133A of the Act was carried out on 14/9/2017. During the course of survey, Registers, Bill books, loose papers, etc. were found from the premises. On perusal of the documents, the Learned Assessing Officer noted that the assessee has received gross income of Rs.4.17 crores that included some repetitive bill entries and discounts to the parties. Therefore, Rs.30 lakhs was reduced from the total gross receipts. Further, expenses were also verified and net profit was worked out at Rs.1.62 crores. The assessee in question No.10 of the statement recorded during the course of survey also admitted this. However, on perusal of the return of income filed, the assessee declared a total income of Rs1,43,61,970/-.

05. During the course of assessment proceedings, the assessee claimed that there is a revised working of duplicate bill entries and discounts along with professional fees paid of Rs.81.49 lakhs which needs to be reduced. The Learned Assessing Officer rejected the contention of the assessee, as the assessee agreed during the course of survey. Accordingly, the assessee claimed duplicate bill entries of Rs.51.79 lakhs, whereas the Learned Assessing Officer allowed Rs.21.80 lakhs. With respect to the discounts, the assessee claimed Rs.22.07 lakhs. The Learned Assessing Officer allowed Rs.11 lakhs. With respect to the professional fees paid of Rs.7,62,730/-, nothing was allowed. Therefore, the assessee has disclosed the income during the course of survey at Rs1,62,88,607/-, whereas in the return of income it was disclosed at Rs.1,43,61,973/-. The Learned Assessing Officer made an addition of difference of Rs.19,26,634/- in the assessment order passed on 17/12/2019.
06. The assessee contested the above addition in appeal before the Learned CIT-A. The Learned CIT-A considered the above explanations vide paragraphs No.10 to 15, as under:

“10. The claim of the appellant is that the gross receipts of Rs. 4,17,00,000/- as quantified during survey, should be reduced by the following amounts:

- | | | |
|------|-----------------------|-----------------|
| i) | Duplicate bill entry | Rs. 51,79,936/- |
| ii) | Discounts | Rs. 22,07,238/- |
| iii) | Professional fee paid | Rs. 7,62,730/- |

Total**Rs. 81,49,904/-**

Accordingly, the appellant has declared the professional fees received in the PL Account at Rs. 3,34,93,430/-. A perusal of the statement recorded during the survey clearly suggests that the gross receipts at that time were worked out at Rs.4,17,00,000/-, which has not been disputed by the appellant till date. If we reduce the claim of the appellant amounting to Rs.81,49,904/- from Rs.4,17,00,000/-, the resulting figure comes to Rs.3,35,50,096/-. Against this amount, the appellant has declared professional receipts of Rs.3,34,85,430/- in the P/L Account. Therefore, till date the appellant has not reconciled the difference of Rs.56,666-(3,35,50,096-3,34,93,430). Since in the assessment proceedings, as well as in the appellate proceedings, the claim of the appellant is that the total amount of Rs.81,49,904/- should be reduced from the gross receipts quantified at the time of survey, therefore, the difference of Rs.56,666/- remained unexplained till date.

11. The appellant has further claimed that an amount of Rs.7,62,730/- was included in the gross receipts but since this amount corresponds to professional fee paid by the appellant, same should be reduced from the gross receipts. In support of this, the appellant has claimed that complete details of this amount of Rs.7,62,730/- was given to the Assessing Officer at the time of assessment itself. A copy of same was filed with the letter dated 13/02/2023, which was forwarded to the Assessing Officer for remand report. In the remand report, the Assessing Officer has submitted that the amount of Rs.53,73,324/- has been separately claimed as professional fee in the P/L Account and therefore, no separate claim should be allowed in the absence of supporting documents. In the rejoinder, the appellant has mentioned that the professional fee reconciliation was filed to the Assessing Officer which was ignored by him.

12. I have perused the said reconciliation filed by the appellant. It is seen that the appellant has given 29 names of doctors claiming that total amount of Rs.7,62,730/- was paid to them as professional fees. However, no supporting documents such as voucher/bill raised by these doctors/proof of payment that same were made out of the bank account/details of TDS made on these payments/confirmations from these doctors, etc., has been filed by the appellant. It is further seen that the appellant has separately claimed expenses under the head professional fees amounting to Rs.53,72,324/- from the receipts of Rs.3,34,93,430/- credited in the P/L Account. A perusal of the tax audit report (column 34a) further suggests that the assessee has paid professional fee of Rs.51,29,450/- during the year. Thus, the tax audit report also suggests that no amount of Rs.7,62,730/- was paid as professional fee in addition to amount debited in the P/L Account. In view of these facts, it is held that the appellant has failed to substantiate that the amount of Rs.7,62,730/- should be reduced from the amount of Rs.4,17,00,000/- while quantifying the professional receipts during the year. Accordingly, the claim of the appellant is rejected.

13. The next contention of the appellant is that the Assessing Officer did not allow the benefit of Rs.11,07,238/- on account of discount given to the patient. As discussed above, the appellant has claimed that a total discount of Rs.22,07,238/- was given to various patients and therefore, this amount should be reduced from the figure of Rs.4,17,00,000/-. While completing the assessment, the Assessing Officer has allowed the benefit of Rs.11,00,000/- and the benefit of balance Rs.11,07,238/- was denied by him. In this connection, the appellant has submitted details of discount given to various patients. These details were verified by the undersigned on a test check basis and it is found that the claim of the appellant is not entirely correct as explained below:

(i) A bill of Rs.3,15,610/- was raised for the patient Shri Ramji Singh. As per the table furnished by the appellant, whole of this amount was given as discount. During the hearing, the appellant was requested to substantiate that whole of the bill amount was waived-off by the assessee by way of discount. In support to this, the appellant has filed a copy of provisional bill amounting to Rs.3,15,610/-. However, on this bill there is no mention of any discount. It is seen that the amount of discount/concession is mentioned on many other bills filed/produced by the appellant, however, there is no such narration on this bill.

(ii) There is another amount of Rs.70,515/- claimed by the appellant as discount in the name of M/s Pulse Imaging Pvt. Limited, however, no supporting document for this discount has been filed claiming that it was out of the opening balance. This submission of the appellant does not clarify as to how a discount can be claimed for some bill which was raised in an earlier year. Moreover, no supporting document has been filed by the appellant.

(iii) Similarly, there is another bill of Rs.36,470/- in the name of Kaushalya Singh, wherein whole of the bill amount has been claimed as discount without filing/producing any documentary evidence.

14. This discussion clearly suggests that the appellant has failed to substantiate its claim of discount amounting to Rs.22,07,238/-. The Assessing Officer has already given a benefit of Rs.11,00,000/- out of this claim of Rs.22,07,238/- which appears to be reasonable. Considering the totality of facts of the case, I am of the opinion that the assessee is not eligible for further benefit of Rs.11,07,238/- as it has failed to substantiate its claim.

15. The above discussion clearly suggests that the appellant has failed to substantiate his claim that a total amount of Rs.81,49,904/- should be reduced from the gross receipts of Rs.4,17,00,000/-. The Assessing Officer has already allowed the claim of the appellant to the extent of Rs.62,79,936/-. Moreover, as discussed earlier in this order, the appellant has failed to reconcile the difference of Rs.56,666/-. Considering the totality of facts of the case, the addition of Rs.19,26,634/- (81,49,904 - 62,79,936 + 56,666) is upheld. The grounds of appeal raised by the appellant are DISMISSED.”

07. Accordingly, the appeal of the assessee was dismissed.
08. The Learned Authorised Representative filed before us a detailed paper book containing 193 pages, duplicate bill details in separate paper book. Assessee contended that the assessee has submitted reconciliation of professional fees, ledger account of professional fees payment, ledger account of discount on professional fees and further sample copies of the bill, but the Learned authorities below have not considered the explanation of the assessee. He submitted that at the time of survey, all the details were available on record in the books of account. Therefore, the same should have been accepted. Further, he submitted the month-wise details of repetitive bills containing 319 pages. He also submitted that such repetitive bills should have been accepted for reduction from the computation of total income. He also submitted that the statement of Shri Mohan More, partner of the assessee firm was recorded on 14/9/2017, wherein in answer to question No.6, he submitted the professional trial balance and details of expenditure. In response to question No.5, he also

submitted the payments made to the Doctors. Accordingly, he submitted that all these details are available during the course of assessment proceedings only. He further referred to the statement of the same person recorded on 14/9/2017, which is placed at pages 187 of the paper book and submitted that in response to question No.8, he referred to the fact that there are repetition of various bills and discounts have been given to various patients. At that time, the lump-sum amount of Rs.30 lakhs was mentioned and therefore, from the addition made of Rs.19 lakhs, the above sum should have been reduced. He also submitted that the profit derived of ₹ 1.61 crores in the statement is merely on approximation. Further the sum of ₹ 30 lakhs was also approximation. Therefore the addition is made against the disclosure which was made on approximation basis against the total income offered by the assessee. He submitted that in the details submitted before the learned lower authorities no defects are pointed out. It was further the claim of the assessee that the learned CIT – A has convinced about the duplicate bills but has not given any relief on that. He also referred to the gross fee receipt and stated that in the Ledger account itself the assessee has debited the discount expenditure as well as the professional fees paid and then the gross receipt has been net off. There is no reason given by the lower authorities to not granting the same as deduction.

09. The Learned DR vehemently supported the orders of the Learned lower authorities. He submitted that the Learned Assessing Officer has added the income disclosed by the assessee as reduced by the income offered in the return of

income of Rs.19,26,634/- and the Learned CIT-A has already considered the submission of the assessee.

10. We have carefully considered the rival contentions and perused the orders of the learned lower authorities. The facts clearly shows that during the course of survey, the assessee has submitted in his statement that the gross amount of Rs.4.17 cores is the income of the assessee, wherein some repetitive bills and discounts are given, which is amounting to Rs.30 lakhs approximately. Thus, gross receipt worked out was Rs.3.87 crores. The assessee submitted that the total expenses of the assessee is approximately Rs.2.25 crores and the net profit, according to those figures, works out at Rs.1.62 crores. Assessee also agreed to disclose the above amount in the return of income and paid tax thereon. However, when the return of income was filed, the assessee offered the income of Rs.1,43,61,917/-. Therefore, the difference of income worked out during the course of survey of Rs.1,62,88,607/- and the amount of income declared in the return of income of Rs.1,43,61,973/- i.e. Rs.19,26,634/- was added to the income of the assessee.
11. During the course of assessment proceedings, the assessee gave details of duplicate bill entries of Rs.51,79,936/- and discount of Rs.22,07,238/-. Further, a sum of Rs.7,62,730/- as professional fees paid to the Doctors. The amount of discount and professional fees paid was reduced from the gross receipt in the books of accounts of the assessee. For duplicate bills, the assessee has submitted month-wise chart of patients and the details of repetitive bills. The assessee has also submitted the ledger

accounts of discount and professional fees, which are placed at pages 55 to 67 of the paper book. Further, at pages 27 to 37 of the paper book, the assessee has submitted the complete reconciliation of gross receipts shown as well as the professional fees paid along with duplicate bills. In the ledger account of professional fees paid, the assessee has debited a sum of Rs.29,65,454/- which is reduced from the gross receipts. This sum includes discount of Rs 22,02,724/- and professional fees of Rs 762730/-. The Learned Assessing Officer and the Learned CIT-A has already granted reduction of Rs.30 lakhs from the gross receipts on account of discount and repetitive bills, however as per books of accounts, duplicate bill entries are of Rs 51,79,936 /- discount of RS 22,07,238/- . Therefore, the assessee has apparently been denied reduction of Rs.7,62,730/- of professional fees. For professional fees assessee has given the names of doctors to whom it is paid which are recorded in the same ledger in which discounts are also mentioned. On a careful reading of the statement of the partner of the assessee in question No.10, Rs.1.62 crores was also an approximation of net result of gross receipts and estimated expenses were stated to be Rs 2.25 crores. Further, in response to question No.8, repetitive bills and discount was also stated to be approximately Rs.30 lakhs. We further find that the disclosure of income of Rs.1,62,88,607/- is the net result of estimated expenditure and estimated gross income. The details produced by the assessee before the Learned Assessing Officer were not found to be in any way false. Thus there is no reference of professional fees paid during

survey. The debit of professional fees of Rs.7,62,730/-, which was reduced from the gross receipts, was already accounted for at the time of survey and therefore, that reduction should have been granted to the assessee, this also because of the reason that sum of Rs.30 lakhs reduced contained only the discount and repetitive bills. Further, as per paragraph No.10 of the order of the Learned CIT-A, the finding was given that the difference of Rs.56,666/- only remains unexplained. Further, with respect to paragraph No.13 of the order of the Learned CIT-A, he has found the error in the duplicate bills, amounting to Rs.4,22,595/- out of the claim of Rs.11,07,238/-. In view of the above facts, out of the addition of Rs.11,07,238/- of the duplicate bills, the relief could not have been granted only to the extent of Rs.4,22,595/-. Therefore, the assessee should have been granted the reduction of Rs.6,84,643/- out of repetitive bills over and above Rs 30 lakhs.

12. In view of the above facts, as per the information available on record, the assessee should be granted reduction of the professional fees paid of Rs7,62,730/- and repetitive bills of Rs.6,84,643/-. Therefore, the assessee deserves the benefit of Rs.14,47,343/- out of the total addition made of Rs.19,26,634/-. Therefore, we direct the Learned Assessing Officer to retain the addition of Rs.4,79,261/- out of the total addition of Rs.19,26,634/-. Thus, the assessee is granted a relief of Rs.14,47,343/-. In the result, ground No.1 of the appeal of the assessee is accordingly partly allowed.

13. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 27.10.2023.

Sd/-
[SANDEEP SINGH KARHAIL]
JUDICIAL MEMBER

Sd/-
[PRASHANT MAHARISHI]
ACCOUNTANT MEMBER

DATED:27.10.2023

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar