

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
ITA No. 2774/Mum/2023
(A.Y: 2017-18)

Nikita Gems Pvt Ltd, Office No.116-B, 1 st Floor, Pancratna, Opera House, Mumbai-400004.	Vs.	DCIT, CC-1(3), Room No.903, 9 th floor, Pratishta Bhavan, M.K. Road, Mumbai-400020.
PAN/GIR No. : AAECN2530R		
Appellant	..	Respondent

Assessee by :	Shri.Vimal Punmiya.AR
Revenue by :	Shri.G.J. Ninawe.Sr. DR

Date of Hearing	01.11.2023
Date of Pronouncement	06.11.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Appeals) (CIT(A)-47, Mumbai passed u/sec143(3) andU/sec 250 of the Act. The assessee has raised the following grounds of appeal.

- I. *On the facts and in the circumstances of the case, The learned Commissioner of Income Tax (Appeal) has erred in confirming the addition of Rs12,21,147/- made by the learned Dy. Commissioner of Income Tax Central Circle 1(3) on account of interest income on the basis of its refection in 26AS on 19.11.2017 (well after filing of income tax return*

of appellant company) as undisclosed income without any base

ii. The appellant craves to add, amend or alter the grounds of appeal at the time of or before the hearing of appeal:

2. The brief facts of the case that, the assessee company is engaged in the business of trading in diamonds and during the financial year 2016-17, the assessee has not carried out any business activities. The assessee has filed the return of income for the A.Y 2017-18 disclosing a total loss of Rs. 3,08,614/-. Subsequently the case was selected for scrutiny and notice u/sec 143(2) and U/sec 142(1) of the Act are issued. In compliance, the assessee has filed the details as called for. The Assessing Officer (AO) on perusal of the records and information found that, the assessee has not disclosed the interest income as per Form.no. 26AS of Rs.12,21,147/- and the explanations were called from the assessee. Whereas the assessee has complied with the directions but the AO was not satisfied with the explanations and treated the Interest income of Rs.12,21,147/- as undisclosed income of the assessee and assessed the total income of Rs.9,12,530/- and passed the order U/sec143(3) of the Act dated26-12-2019.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the grounds of appeal, submissions of the assessee and findings of the AO, since the assessee is following mercantile accounting system therefore the assessee should have accounted the interest income in the books of accounts and the CIT(A) has sustained the addition of the A.O and dismissed the assessee appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, Ld. AR submitted that the CIT(A) has erred in confirming the action of the AO overlooking the facts and submissions made before the AO and in the proceedings. The Ld. AR contentions are that the assessee has not received interest income from the party in the F.Y 2016-17. The assessee has advanced the amount in the earlier years and no interest income was charged in the books of accounts. Whereas after filing the return of income by the assessee, the interest income was reflected as per Form.No.26AS and there is no actual receipt of interest income on the Loans /advances. The Ld. AR substantiated the submissions with factual paper book

and judicial decisions, synopsis and prayed for allowing the assessee appeal. Per Contra, the Ld. DR relied on the order of the CIT(A)..

5. Heard the rival submissions and perused the material on record. The sole matrix of the disputed issue envisaged by the Ld. AR that the CIT(A) has erred in confirming the action of the AO in making the addition of interest income earned by the assessee from the loan debtor. The Ld.AR submitted that the assessee has advanced these loans in the earlier years and has referred to page 9 of the paper book, where the details of Loans & Advances granted as on 31-03-2017 are reflected. The Ld. AR demonstrated the ledger accounts of the party placed at page 134 to 144 of the paper book. Whereas no interest has been charged on the advances by the assessee in the books of accounts and ledger accounts maintained by the assessee company. The Ld.AR's contentions are that the assessee is following mercantile accounting system and since the principle amount recovery itself is doubtful, hence charging of interest on the accrual basis is not a prudent practice. Further the assessee is following the Accounting Standard (AS)-9 of ICAI –Revenue Recognition. The Ld.AR also referred to the Form. No.26AS for the A.Y 2017-18, at

page 160 of paper book, in particular where the entry was made by the loan debtor party on 19.11.2017 after filing the return of income by the assessee for A.Y 2017-18 on 6-10-2017. Prima-facie, these facts and the material information filed were not dealt by the A.O. Hence considering the facts, circumstances and the submissions and to meet the ends of justice, shall provide with one more opportunity of hearing to the assessee to substantiate the claims before the assessing officer and therefore for limited purpose, restore the disputed issue along with evidences to the file of the Assessing officer to examine and verify the claim and decide on the merits. And the assessee should be provided adequate opportunity of hearing and the assessee should cooperate in submitting the information and we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 06.11.2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 06.11.2023

KRK, PS

Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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(Asst. Registrar)
ITAT, Mumbai