

IN THE INCOME TAX APPELLATE TRIBUNAL  
PANAJI BENCH :: PANAJI

BEFORE SHRI R.S. SYAL, HON. VICE-PRESIDENT &  
SHRI PARTHA SARATHI CHAUDHURY, HON. JUDICIAL MEMBER  
(through virtual hearing)

ITA No.167/PAN/2019  
(A.Y. 2012-13)

|                                                                                                                 |    |                             |
|-----------------------------------------------------------------------------------------------------------------|----|-----------------------------|
| Smt. Vandana Sameer Majali,<br>H.No. 189/B1/A, Shukrawar<br>Peth, Tilakwadi, Belagavi.<br><br>PAN: APUPM 1202 K | vs | ITO, Ward-2(1),<br>Belagavi |
| Appellant                                                                                                       |    | Respondent                  |

|                       |   |                            |
|-----------------------|---|----------------------------|
| Assessee by           | : | Shri Omkar S. Godbole, FCA |
| Revenue by            | : | Shri N. Shrikanth, DR      |
| Date of hearing       | : | 06/11/2023                 |
| Date of pronouncement | : | 08/11/2023                 |

ORDER

Per PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of Commissioner of Income Tax (Appeals), Hubballi (for short, 'CIT(A)'), dated 11.03.2019 for A.Y.2012-13 as per the grounds of appeal on record.

2. The relevant facts are that the assessee, an individual, in the business of providing share broking services and trading in shares, filed her return of income for A.Y. 2012-13 with a returned loss of Rs. (-) 18,64,887/-. The assessment was completed by assessing income at Rs.92,81,770/- u/sec. 143(3) by making disallowance of expenditure on consultancy and commission of Rs. 1,10,22,476/-.

3. We have perused the relevant materials/documents on record and have analysed the facts and circumstances in this case. We have given considerable thought to the submissions made by the parties herein.

3.1 We observe from the order of Id. CIT(A) specifically at paras 3.1 & 3.2 that sufficient opportunities were given to the assessee to make submissions in support of the claim that the expenses incurred were genuine and for the purpose of business of the assessee. The assessee was also asked to file details of computation of commission, however, the assessee was unable to furnish any details justifying the expenses and the computation of commission before the Id. CIT(A). That, further at para 4, the Id. CIT(A) observed that even during the assessment proceedings, the assessee did not produce the necessary details and verifiable proof of expenses despite opportunities being provided to the assessee. The assessee was also not able to submit details during the appellate proceedings and since the genuinity of all these expenses incurred was not established and also since it was not clear whether these were exclusively for the purpose of business of the assessee, the Id. CIT(A) finally dismissed the appeal of the assessee. In this case, it is correct that in spite of several opportunities given to the assessee, the relevant details were not filed either before the AO or before the Id. CIT(A). However, at the time of hearing, Id.AR for the assessee was willing to furnish the relevant details before the Id.CIT(A) to justify the case of the assessee on merits. The Id.DR

vehemently opposed any further opportunity being given to the assessee. We are of the considered view that income tax legislation being welfare legislation, which is absolutely different and separate from penal legislation, the benefits and rights of the taxpayer/assessee should be protected within the ambit of law as far as possible. In the present case, if the assessee this time is unable to produce evidence and relevant documents, then the Department shall definitely make necessary additions, however, at this stage we are only providing one final opportunity to the assessee and in view thereof, we set aside the order of the Id. CIT(A) and remand the matter back to his file to adjudicate as per law complying with principles of natural justice after considering the relevant evidences/documents that shall be filed before him by the assessee and the assessee is accordingly directed that this being final opportunity, all the necessary directions of filing relevant documents should be complied with before the first appellate authority. We order accordingly. Grounds of appeal stands allowed for statistical purposes.

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

Order pronounced in open Court on 08<sup>th</sup> November, 2023.

Sd/-  
(R.S. SYAL)  
VICE PRESIDENT

Sd  
(PARTHA SARATHI CHAUDHURY)  
JUDICIAL MEMBER

Dated : 08<sup>th</sup> November, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
5. The DR, ITAT, Panaji Bench, Panaji.
6. Guard File.

By Order

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Senior Private Secretary  
ITAT, Pune.