

**IN THE INCOME TAX APPELLATE TRIBUNAL
JAIPUR BENCHES, "SMC" JAIPUR**

**BEFORE SH. SANDEP GOSAIN, JUDICIAL MEMBER
AND DR. M. L. MEENA, ACCOUNTANT MEMBER**

I.T. A. No. 813/JPR/2023
Assessment Year: 2017-18

Raj Ansh Auto Wheels,
KH No. 319 Kankarda
Bhunabay, Jaipur Road,
Ajmer 305001, Raj.

[PAN: AATFR 7077F]

(Appellant

Vs. Income Tax Officer,
Ward-2(1), Ajmer

(Respondent)

Appellant by : Sh. P. C. Parwal
Respondent by : Sh. Monisha Chaudhary, Addl. CIT

Date of Hearing : 01.02.2024
Date of Pronouncement : 08.02.2024

ORDER

Per Dr. M. L. Meena, AM:

The captioned appeal has been filed by the assessee against the order of the Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 29.10.2023 in respect of Assessment Year: 2017-18.

2. The assessee has raised the following grounds of appeal:

- “1. *The Ld. CIT(A), NFAC has erred on facts and in law in confirming the addition to the extent of Rs.3,71,107/- out of the addition of Rs.6,67,641/- made by AO u/s 69A of the Act ignoring that it represent the service charges receipt duly credited to the P&L A/c and thus confirming the addition has resulted into double addition.*
2. *The Ld. CIT(A), NFAC has erred on facts and in law in confirming the addition of Rs.15,17,621/-by treating the sundry creditors as unexplained on the ground that confirmation from sundry creditors is not furnished ignoring that these are trade creditors otherwise verifiable from the purchase bills and the customer statement report available on record.*
3. *The Ld. CIT(A), NFAC has erred on facts and in law in treating the purchase of furniture of Rs.12,41,740/- as bogus without properly appreciating the facts and making addition thereof ignoring that assessee has not claimed any expenditure in the P&L A/c in respect of purchase of furniture.*
4. *The Ld. CIT(A), NFAC has erred on facts and in law in confirming the disallowance of claim of depreciation of Rs.1,24,174/- on the purchase of furniture alleged to be bogus.*
5. *The appellant craves to alter, amend and modify any ground of appeal.*
6. *Necessary cost be awarded to the assessee.”*

3. Briefly the facts of the case are that the assessee is a partnership firm which has filed its return of income for assessment year 2017-18 declared an income of Rs.88,780/-. The assessee has been engaged in the business of sale of passenger cars being authorized dealer of Tata Motors. The AO being not satisfied with the reply of the assessee has made

addition on multiple issues by making an addition amounting of Rs.41,06,901/-.

4. Aggrieved, the assessee went an appeal before the Id. CIT(A) who has allowed part relief to the assessee.

5. Ground No. 1 pertains to the confirmation of addition amounting to Rs.3,71,107/- out of addition of Rs.6,67,641/- made by the AO u/s 69A of the Act on account unexplained service charges receipt claimed by the appellant in the profit & loss account.

5.1 The Id. Counsel for the assessee submitted that the Id. CIT(A) was not justified in treating the service charges of Rs.3,71,107/- received in the months of August, 2016 as unexplained u/s 69A of the Act. The counsel submitted that the assessee started the service of Tata Vehicles in July, 2016 and the assessee vide its letter dated 18.12.2019 (APB pg. no. 6) has explained that in terms of agreement executed with Tata Motors in March, 2016 it had completed the showrooms in service centre on 09.06.2016 and started service of Tata Vehicles in July, 2016. However, in the month of July and August, 2016 which provided only labour service and spare parts were provided by the customers. In the month of July, 2016, service charges at Rs.49,876/- and in the months of August, 2016, it was

Rs.3,71,107/- . The ledger account and the service charges (APB pg. nos. 9 to 11) in the supporting receipts voucher is at page no. 12 to 19. He contended that the service charges has been credited to P&L A/c and offered for tax. He argued that the Id. CIT(A) has himself accepted the service charges of Rs.49,876/- as explained and therefore, there is no reason to treat the similar service charges of Rs.3,71,107/- as unexplained.

5.2 The Id. DR supported the impugned order.

6. Having heard, both the sides and perusal of record in the impugned order. We find that the assessee has no stock of spare parts during the relevant period, he claimed the receipt from the service charges, i.e. in the month of July, 2016 to August, 2017. The finding of the Id. CIT(A) that the service charges generated amounting to Rs.3,71,107/- cannot be considered as income and the Assessing Officer justified in treating above some as unexplained cash deposit, since there were no stock or purchase of spare parts on the beginning of the showroom. However, in the second observation of the Id. CIT(A) that he has accepted the service charges receipts without spare parts in the month of July, 2016 amounting to Rs.49,876/- as income is self contradictory to its earlier observations of not treating the service charges of Rs.3,71,107/- as income of the assessee,

under the identical facts of the absence of purchase of spare parts. Further, the appellant assessee itself has admitted that the assessee started service of Tata Vehicles in July, 2016 in terms of agreement executed with Tata Motors in March, 2016 and he has credited the income from services charges amounting to Rs.3,71,107/- in its profits and loss account, with support of copy of agreement executed with Tata Motors, on record to substantiate its claim. In view of that matter, we find no reason to treat similar service charges of Rs.3,71,107/- as unexplained. Accordingly, the addition of Rs.3,71,107/- confirmed by the CIT(A) is deleted and thus, ground no. 1, is allowed.

7. Ground no. 2 pertains to the confirmation of the addition of Rs.15,17,621/- by treating the sundry creditors as unexplained on the ground that confirmation from sundry creditors is not furnished ignoring that these are trade creditors otherwise verifiable from the purchase bills and the customer statement report available on record.

8. The Id. Counsel for the assessee submitted that both the lower authorities have not appreciated the facts in correct perspective as all these alleged 5 creditors are trade creditors and not cash creditors. The assessee has furnished the confirmed copy of account and other evidences

in support of the genuineness of creditors. The counsel argued that the observation of the Id. CIT(A) that the appellant did not submit copy of the confirmation of creditors and that the confirmation letter of all suppliers were provided in the covering letter as furnished before the AO, are factually incorrect. The Id. Counsel has filed the confirmation and statement of the account in respect of the alleged five trade creditors (ABP pg. no. 20-21 and 32-33).

9. It is seen that the appellant has filed confirmation in the form of copy of account and customers statement report of Tata Motors, copy of ledger account and relevant invoices (APB pg. no. 20 to 33) before the authorities below. In our view, the trade creditors stand verified in absence of rebuttal by the revenue authorities to the documentary evidences being produced below then by the appellant as per record. Accordingly, addition of Rs.15,17,621/- is deleted. Ground no. 2, is allowed.

10. Ground no. 3 and 4 pertains to treatment of purchase of furniture of Rs.12,41,740/- as bogus, and disallowance of claim of depreciation of Rs.1,24,174/-.

11. The AR submitted that the assessee has not debited and expenditure of Rs.12,41,740/- in its P&L A/c but capitalized. It is seen that paper book

page no. 37 which is a debit note issued by Shiva Enterprises to the assessee pertaining to purchase of furniture for Tata Show-room being claimed by the assessee as capital expenditure and claimed depreciation on the furniture as well. Since this document at page no. 37 has been filed on 1st July with a oral request to be admitted as an additional evidences as per rule 29 of ITAT Rules. Considering the principles of natural justice, this document has been deemed to be admitted as it goes to the root to the matter in respect of the expenditure claimed regarding the furniture and depreciation of the same. The Id. Counsel contended that the part of the of documentary evidences were available before the authorities below which have been ignored to be considered on merits of the case and, therefore, we consider it deem fit to remand back the issue of the disputed expenditure on purchase of furniture and claim of depreciation on furniture to the file of the Assessing Officer to examine and verify veracity of the documentary evidence filed on record (APB pg. no. 37) and to be filed in the course of the assessment proceedings, and decide the issue as per law after granting sufficient opportunity of being heard. Accordingly, these two issues of furniture expenses and claim depreciation are remanded back to the Assessing Officer for afresh adjudication as per law.

12. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 08.02.2024

Sd/-
(Sandeep Gosain)
Judicial Member

Sd/-
(Dr. M. L. Meena)
Accountant Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The Id. CIT
- (4) The Id. CIT(A)
- (5) The DR, I.T.A.T., Jaipur
- (6) Guard File

By Order,

Asstt. Registrar