

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

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)

ITA No.71/MUM/2024
Assessment Year: 2015-16

M/s. Globe Transport
Corporation,
F 11/12 Sitaram Bldg.
Palton Road,
Crowford Market,
Mumbai – 400 001
PAN No.AADFG4458K

Income Tax Officer,
Ward 17(3)(1),
Vs. Kautilya Bhawan,
Bandra Kurla Complex,
Bandra East,
Mumbai – 400 051

Appellant

Respondent

Assessee by : Shri D.C. Jain, A.R.
Revenue by : Shri Manoj Kumar Singh, Sr. AR

Date of Hearing : 19/02/2024
Date of pronouncement : 20/02/2024

ORDER

PER : OM PRAKASH KANT, AM

This appeal has been preferred by the assessee against the order dated 21.12.2023 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre, Delhi [In short the Ld. CIT(A)] for assessment year 2015-16, raising following grounds:-

“1. GROUND OF APPEAL:

1. Under the facts and circumstances and in law the learned C.IT (Appeals) erred in confirming the disallowance of Rs.1,45,28,214/- made by the Assessing officer



M/s. Globe Transport Corporation
ITA No.71/MUM/2024

in the assessment order passed u/s 143(3) of IT Act being 25% of the total expenses appeared in Audited Profit & Loss Account filed with Returns of Income.

1. (A) The learned C.I.T (Appeals) failed to appreciate that:-

1) The Returns of Income is filed with Audited Statement of Accounts and Tax Audit Report as required by law u/s 44AB of 1.T Act the same is accepted.

2) The expenses of Rs. 5,81,12,859/- being the total of debit side of Profit & Loss Account, taken for disallowance of 25% of the expenses includes:

(a) Depreciation on fixed Assets-Rs.16,50,287/-

(b) Salary & interest to partners - Rs.4,15,424/-.

3) The expenses incurred and claimed to the extent of Rs. 4,15,98,228/- is paid by Cheque and/or by banking channels; which is approx. 80% of the total expenses and expenses incurred in cash are within the limits prescribed by law. Tax is being deducted at source and paid to the bank wherever required by law.

4) Return of Income filed with Audited Statement of accounts and tax Audit Report as required by law, the same is accepted as the total receipts declare is accepted. The appellants filled the details and explanation with supporting's before Assessing Officer had not pointed out as which of the details have not been filled

5) The Appellants filled the paper book before the learned CTT (Appeals) containing the details of expenses and comparative chart of expenses along with copies of bills of expenses / vouchers etc.etc. In duplicate as the Remand Report was required from the assessing Officer.

2. The appellants crave leave to add, amend alter, delete the grounds of appeal at or before the hearing of Appeal.”

2. Briefly stated facts of the case are that in the year under consideration, the assessee firm was engaged in the business of transport of goods. The assessee filed return of income for the year under consideration on 27.09.2015 declaring Nil income. The return of income filed by the assessee was selected for scrutiny and statutory notices under the Income Tax Act, 1961 (in short “the Act”) were issued and complied with. During the course of scrutiny proceedings, the Assessing Officer called for the evidence in support of the expenses claimed but in view of the partial details filed by the assessee, the Assessing Officer



M/s. Globe Transport Corporation
ITA No.71/MUM/2024

made disallowance of the 25% of the total expenses of Rs.5,81,12,859/-, which was worked out to Rs.1,45,28,214/-. The Ld. CIT(A) also sustained the disallowance observing as under:

“4.2 The main issue in all the grounds taken by the assessee is that Under the facts and circumstances the learned Assessing officer erred in disallowing a sum of Rs. 1,45,28,214/- being 25% of the Total expenses, without any basis.

4.3 The AO has mentioned in the assessment order that In view of the above, I am left with no option but to make judicious disallowance with respect to the expenditures claimed by the assessee. The assessee has shown receipts of receipts of Rs. 5,82,99,603/-. It is natural that to earn the same, various expenses need to be incurred. But in absence of proper verification of the same being possible due to non-production of records and supporting evidences by the assessee, 25% of the total expenses claimed of Rs. 5, 81 ,12,859/- are hereby disallowed. Accordingly, the amount of Rs. 1, 45 ,28,214/- (25% of 5,81,12,859) is hereby disallowed and added to the total income of the assessee under the head Income from Business & Profession.

4.4 I have gone through the assessment order and record available. It is seen from the assessment record that the appellant made partial compliance during assessment proceedings and not supplying the evidences requested by AO through notices u/s 142(1). The AO due to time period compulsion completed the assessment for want of verification of high level of expenses by the assessee (approximately 99% of the receipts).

4.5 In the course of the appeal proceedings, a critical issue has surfaced concerning the appellant's claims of expenditure, wherein more than 99% of the reported receipts have been declared as expenses. Astonishingly, during the appeal proceedings, the appellant not only failed to submit any evidence to support this substantial claim but also neglected to provide any substantive documentation to substantiate the alleged high level of expenses incurred.

4.6 The lack of supporting evidence is a cause for significant concern, as it raises questions about the accuracy and credibility of the appellant's claim of expenses. The absence of documentation not



M/s. Globe Transport Corporation
ITA No.71/MUM/2024

only leaves the veracity of the claimed expenses unverified but also casts doubt on the transparency and legitimacy of the financial practices employed by the appellant.

4.7 One of the fundamental principles in any appeal process, especially those involving very high expenses, is the requirement for assessee to furnish evidence supporting its claims. In this instance, the appellant's failure to provide any documentation during the appeal proceedings not only hinders the proper evaluation of its case but also leaves the appeal proceedings in a unjustified position, unable to ascertain the validity of the reported expenditures.

4.8 The claim of allocating more than 99% of receipts to expenses is inherently significant, necessitating a robust presentation of evidence to justify such a substantial allocation. The lack of substantiation raises concerns about the accuracy of the financial records and prompts a closer scrutiny of the appellant's claims. It is imperative for assessee to adhere to the principles of transparency and evidentiary support to ensure a fair and just resolution.

4.9 Moreover, this absence of evidence leads to skepticism regarding the authenticity of the reported financial transactions, potentially impacting the overall outcome of the appeal. The burden of proof lies with the appellant, and the failure to meet this burden has repercussions on the credibility of assessee's claims.

4.10 In conclusion, the appellant's assertion of allocating more than 99% of receipts as expenses, coupled with the failure to submit any evidence during the appeal proceedings, raises serious questions about the accuracy and legitimacy of the claim of expenses. This underscores the importance of thorough documentation and adherence to evidentiary standards in appeal proceedings, especially when significant financial claims are at the forefront of the case. The resolution of this matter will hinge on the ability of the appellant to provide credible evidence substantiating its claims of expenses. Since the assessee has failed to discharge its onus to provide complete evidences against claimed expenses. The action of the AO is confirmed and the ground taken by assessee is dismissed.”

3. Before us the Ld. Counsel for the assessee submitted that the assessee is willing to produce all the bills and vouchers in support of the expenses claimed and therefore matter might be restored back to the file of the Assessing Officer.



M/s. Globe Transport Corporation
ITA No.71/MUM/2024

3.1 In our opinion, the only issue is failure on the part of the assessee in producing the bills and vouchers before the Assessing Officer. In the grounds raised, the assessee has mentioned that its books of accounts were duly audited therefore the book result of the assessee should be accepted. However, we do not agree with the assessee, as onus is on the assessee to produce the bills and vouchers for verification before the Assessing Officer and in failure in doing so the Assessing Officer is justified in rejecting a part of expenses. However, in the interest of substantial justice and in view of the undertaking given by the Ld. Counsel for the assessee that all the bills and vouchers would be produced before the Assessing Officer, we feel it appropriate to set aside the order of the Ld. CIT(A) and restore the matter back to the Assessing Officer for deciding afresh. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 20/02/2024.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai, Dated: 20/02/2024

Kishore, Sr. PS



M/s. Globe Transport Corporation
ITA No.71/MUM/2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai