

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI  
BEFORE SHRI AMARJIT SINGH, AM AND MS. KAVITHA RAJAGOPAL, JM**

ITA No. 3635/Mum/2023  
(Assessment Year: 2016-17)

Lakhi Fashion LLP 1205 Chamunda Jewel Tower, Yashwant Nagar, Goregaon (W), Mumbai-400 104	Vs.	ITO-32(2)(1) Mumbai
PAN/GIR No. AAFFL 3987 L		
<b>(Assessee)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	None
<b>Respondent by</b>	:	Shri Manoj Kumar Sinha
<b>Date of Hearing</b>	:	05.03.2024
<b>Date of Pronouncement</b>	:	13.03.2024

**ORDER**

**Per Kavitha Rajagopal, JM:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2016-17.

2. The assessee has challenged this appeal on the following ground:

1. *That both the lower authorities have erred to estimate the disallowance of expenses, claiming it as revenue leakage, without appreciating that there is no such concept recognized by the Income Tax Act unless s. 145 of the Act is invoked and thence, such addition made on estimate basis is urged to quash appreciating the principle of consistency in view of the fact that in the subsequent assessment year 2018-19 ld. NFAC (assessment unit) has accepted the returned income u/s. 143(3) of the Act without finding any leakage of the revenue. – Rs.36,71,250/-*

3. As there was no representation on behalf of the assessee, we hereby dispose of this appeal by hearing the learned Departmental Representative ('Id.DR' for short) and on perusal of the materials available on record.

4. The brief facts are that the assessee is a partnership firm and is engaged in the business of imitation jewellery. The assessee had filed its return of income dated 31.03.2017 declaring total income at Rs.17,23,070/-. The assessee's case was selected for scrutiny under CASS and notice u/s. 143(2) and 142(1) were issued and served upon the assessee.

5. The Id. Assessing Officer ('A.O.' for short) observed that the assessee had claimed business expenses amounting to Rs.6,39,31,407/- in its profit and loss account and had sought for details pertaining to the said expenses. The Id. A.O. then disallowed 20% of the impugned expenses amounting to Rs.1,27,86,281/-, thereby determining the total income at Rs.1,45,09,351/- vide assessment order dated 24.12.2018 passed u/s. 143(3) of the Act.

6. The assessee was in appeal before the Id. CIT(A) who restricted the disallowance to Rs.1,06,08,096/- by giving a relief of 5% on the disallowance made by the Id. A.O.

7. Aggrieved, the assessee is in appeal before us, challenging the order of the Id. CIT(A).

8. We heard the Id. DR and perused the material available on record. It is observed that the assessee had claimed the following expenses which was debited in the profit and loss account of the assessee :

<b>S. No.</b>	<b>Expenses</b>	<b>Amount</b>
1.	Labour Charges	68,60,710
2.	Salary & wages	61,51,333
3.	Commission	5,09,19,364
	Total	6,39,31,407

The assessee has failed to substantiate its claim before the lower authorities failing which the Id. A.O. had disallowed 20% of the total expenses claimed by the assessee which was further restricted by another 5% on the disallowance made by the first appellate authority. From the orders of the lower authorities, it is evident that the assessee has not submitted any documentary evidences to substantiate its claim neither before the lower authorities nor before us. The assessee has also failed to corroborate that the said expenses has been incurred wholly and fully for the purpose of its business as per the provisions of section 37(1) of the Act. The Id. CIT(A) confirmed the commission expenses of Rs.5,09,19,364/- being exorbitant amount claimed by the assessee and reduced further 5% on the labour charges and salary and wages disallowed by the Id. A.O. It is also pertinent to point out that the assessee has not furnished any documentary evidence before us. On the principles of natural justice, we deem it fit to restore the issue back to the file of the Id. A.O., extending one more opportunity to the assessee to substantiate its claim with the direction that the assessee should co-operate in the proceeding before the Id. A.O. without any undue delay. We, therefore, remand this issue back to the file of the Id. A.O..

9. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 13.03.2024.*

Sd/-

(Amarjit Singh)  
Accountant Member

Mumbai; Dated : 13.03.2024  
Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)  
Judicial Member

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai