

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, BENGALURU BENCH
BENGALURU**

**BEFORE SHRI N. K. CHOUDHRY, JM &
SHRI LAXMI PRASAD SAHU, AM**

I.T.A. No.212/BANG/2024
(Assessment Year: 2017-18)

**M/s. Kamat Yatrivas Pvt.
Ltd.**

No.40, 2nd Floor, 4th Cross Sirur
Park Road, Malleshwaram,
Bengaluru 560 003

Vs.

**Income Tax Officer,
Ward - 4 (1)(2)**

Bengaluru

PAN No. **AAACK7819C**

(Appellant)

:

(Respondent)

**Appellant/Assessee by
Respondent/Department by**

:

Shri Rohit Sadalagi, CA
Shri Subramanian S., JCIT

**Date of Hearing
Date of Pronouncement**

:

21.03.2024
21.03.2024

ORDER

Per N. K. Choudhry, JM:

This appeal has been preferred by the Assessee against the order dated 29.11.2023, impugned herein, passed by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income Tax (Appeals) [in short 'Ld. Commissioner'] under section 250 of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2017-18.

2. In the instant case, the Assessee had declared its total income of Rs.88,97,130/- by filing its return of income on dated 3.12.2017, which was selected for 'Complete Scrutiny' under CASS and therefore statutory notices were issued to the Assessee. In response, the Assessee filed its financial statements and other various documents as mentioned in para No.3 of the Assessment Order. On perusing the same, the Assessing Officer (in short 'AO') ultimately made the following additions:-

- (i) 30% of Commission paid to KSRTC amounting to Rs 14,59,340/. was disallowed under section 40a(ia)*
- (ii) 30% of Interest paid to NBFCs amounting to Rs 2,30,240/ was disallowed under section 40a(ia)*
- (iii) Interest paid on delayed remittance of TDS of Rs 22,79,630/- was disallowed under section 37*
- (iv) Cash deposited in bank of Rs 17,00,000/- was treated as unexplained cash credit under section 69A*

3. The Assessee being aggrieved challenged the aforesaid additions before the Id. Commissioner, who though granted various opportunities by sending notices to the Assessee, however, the Assessee made no compliance and availed none of the opportunities. Therefore on failure of the Assessee to respond at multiple occasions, it was observed by the Id. Commissioner that the Assessee is not serious to pursue its appeal, as it has not provided any explanation or evidence in support to the grounds of appeal and constrained to uphold the decision made by the AO for want of explanation and documentary evidence as well as on merit

too. In consequence, the Id. Commissioner for want of explanation and documentary evidence dismissed the appeal of the Assessee.

4. The Assessee being aggrieved is in appeal before and reiterated its claim. On the contrary, the Learned Departmental Representative refuted the claim of the Assessee.

5. Heard the parties and perused the material available on record. Though the conduct of the Assessee do not seems to be reasonable and explainable as the Assessee, inspite of affording various opportunities, failed to substantiate its appeal before the Id. Commissioner. However considering the peculiar facts and circumstances of the case in totality, as in absence of the relevant reply/documents, the issues before the Id. Commissioner remained to be un-adjudicated on merits, hence taking a lenient view and for the just decision of the case and substantialial justice, we are inclined to remand the instant case to the file of the Id. Commissioner for decision on merit, suffice to say by affording reasonable opportunity to the Assessee to substantiate its case.

6. We are also inclined to direct the Assessee to file the relevant documents/reply before the Id. Commissioner in support of its claim and to co-operate with the appellate proceedings before the Id. Commissioner and in case of further default, the Assessee shall not be entitled for any leniency.

Thus, the case is accordingly remanded to the files of Id. Commissioner in the aforesaid terms.

7. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 21.03.2024 during virtual hearing.

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(N. K. Choudhry)
Judicial Member

Mini, Sr.PS.

Copy of the Order forwarded to :

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

BY ORDER,
(Dy./Asstt.Registrar)
ITAT, Bengaluru