

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri Manjunatha, G., Accountant Member
आयकर अपील सं./I.T.A. No.1477/Chny/2023
निर्धारण वर्ष/Assessment Year: 2017-18

Presidency Finance Limited,
24/12, 3rd Floor, Raghaviah Road,
T. Nagar, Chennai 600 017.
[PAN:AACCP4841R]

Vs. The Deputy Commissioner of
Income Tax,
Corporate Circle 5(2),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Y. Sridhar, F.C.A
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 25.03.2024
घोषणा की तारीख /Date of Pronouncement : 27.03.2024

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 17.10.2023 relevant to the assessment year 2017-18.

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2017-18 on 11.10.2017 admitting a total income of ₹.80,45,362/- under normal provisions and book profit of ₹.44,41,615/-. The case was selected for scrutiny through CASS and

notice under section 143(2) of the Income Tax Act, 1961 ["Act" in short] dated 06.09.2019 was issued and duly served on the assessee. As there was no response, the Assessing Officer afforded another opportunity vide letter dated 04.10.2019 to furnish the details. In response, the assessee had uploaded only the annual report of the company and did not furnish any other information which were required by the assessee to furnish in response to notice under section 142(1) of the Act dated 06.09.2019. The assessee has failed to furnish any proper documentary evidences and substantiate its claim as genuine. On perusal of the financial statement, the Assessing Officer has noted that during the year the assessee has issued 1,75,000/- equity shares at a face value of ₹.10/- each amounting to ₹.17,50,000/-. However, since there was no proper details/evidences to whom the shares have been issued and the mode of receipt of the amount, the Assessing Officer treated the same as unexplained cash credits in the books of the assessee under section 68 of the Act and brought to tax.

3. Further, the assessee has claimed total expenses to the tune of ₹.1,51,00,862/- incurred during the year. After perusal of the claim and in the absence of documentary evidences or proof, the Assessing Officer has disallowed 60% of the total expenses claimed by the assessee and

added back to the total income of the assessee at ₹.90,60,517/-.

4. The assessee carried the matter in appeal before the Id. CIT(A). After considering the submissions of the assessee, the Id. CIT(A) confirmed the addition of ₹.17,50,000/- under section 68 of the Act and with regard to the claim of expenses, the Id. CIT(A) restricted the disallowance of expenses to the extent of 30% of the total unexplained expenditure and partly allowed the appeal.

5. On being aggrieved, the assessee is in appeal before the Tribunal. With regard to the addition made under section 68 of the Act, by filing various details in the form of paper book, the Id. counsel for the assessee has submitted that the assessee issued the shares to an existing shareholder company and adequately disclosed the details in the balance sheet schedules, which are further mandatorily filed before various regulatory authorities for statutory compliances. It was further submission that without affording adequate opportunities, the Assessing Officer has hurriedly concluded the assessment and prayed for affording one more opportunity of being heard to substantiate the claim of the assessee. So far as restriction of expenses at 30%, the Id. counsel has submitted that the assessee has complete details of expenses incurred and the expenses have to be fully allowed. Thus, it was prayed for one more

opportunity to furnish the details of expenses.

6. On the other hand, the Id. DR supported the order passed by the Id. CIT(A).

7. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book filed by the assessee. Since the assessee could not file any details as to whom the shares have been issued and mode of receipt for the amount, the Assessing Officer treated the same as unexplained cash credits in the books of the assessee under section 68 of the Act, which was confirmed by the Id. CIT(A) as no details were furnished even before the Id. CIT(A). However, by filing various details such as RBI Registration Certificate, PAN copy of investor, ITR-V of the investor, balance sheet schedule of investor, etc., the assessee has prayed for an opportunity to substantiate its case before the Department.

8. With regard to the restriction of disallowance of expenses, the assessee has claimed expenses to the tune of ₹.1,51,00,862/-. Since the claim was not supported by documentary evidences, the Assessing Officer disallowed 60% of the total expenses incurred and brought to tax. On appeal, after considering the submissions of the assessee, Id. CIT(A)

restricted the disallowance of expenses to the extent of 30% of the total unexplained expenditure. Before us, by filing various details of expenses such as ledger extract for interest paid, TDS payment, TDS return acknowledgement, car purchase tax invoice, vehicle maintenance & insurance premium receipt, etc., it was the submission that the assessee has complete details towards expenses incurred and the entire expenses have to be allowed and prayed for affording one more opportunity of being heard to the assessee.

9. In view of the above facts and circumstances, we are of the opinion that to meet the ends of natural justice, the assessee shall be afforded one more opportunity of being heard to substantiate its case by furnishing complete details before the Assessing Officer as was furnished before the Tribunal. Accordingly, we set aside the order of the authorities below and remit the matter back to the file of the Assessing Officer to afford an opportunity to the assessee for furnishing complete details and after examining the details/evidences, the Assessing Officer shall decide both the issues afresh in accordance with law. The assessee is also directed to furnish complete details on both issues before the Assessing Officer for deciding the issues on merits.

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

Order pronounced on 27th March, 2024 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 27.03.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT,
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.