

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.1167/Bang/2023
Assessment year : 2017-18

A-Kal Televerse Private Ltd., 180/63 7G, Council Khata, Vishveshwaraiah Industrial Area, Whitefield, Bangalore – 560 048. <b>PAN: AABCT 8183H</b>	Vs.	The Income Tax Officer, National Faceless Assessment Centre, Delhi.
APPELLANT		RESPONDENT

Appellant by	:	Shri Navneeth Kini, CA
Respondent by	:	Shri Stalin, B, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	26.03.2024
Date of Pronouncement	:	04.04.2024

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal is filed by the assessee against the DIN & Order No.ITBA/PNL/F/270A/2021-22/1039993272(1) dated 22.02.2022 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18 on the following grounds:-

“ 1. On the facts and in the circumstance of the case, the Id. CIT (Appeals), National Faceless Appeal Centre has erred in law by not giving an opportunity of being heard, wherein the assessee

had an opportunity to present the supporting evidence, since compiled.

2. On the facts and in the circumstance of the case, the Id. CIT (Appeals), National Faceless Appeal Centre has erred in law by not adjudicating each of the grounds and dismissing the appeal with a non-speaking order.

3. On the facts and in the circumstance of the case, the Id. CIT (Appeals), National Faceless Appeal Centre has erred in law and facts in confirming the addition of Rs. 13,75,204/- u/s 14A, despite attention being drawn to the fact that the assessee has already disallowed an amount of Rs. 24,93,447/- u/s 14A, which is more than the amount of Rs. 20,78,990/- estimated by the officer.

4. On the facts and in the circumstance of the case, the Id. CIT (Appeals), National Faceless Appeal Centre has erred in law by holding that Licence Fee paid on behalf of Doctors Rs. 13,87,311 /- as under reporting of income in consequence of misreporting.

5. On the facts and in the circumstance of the case, the Id. CIT (Appeals), National Faceless Appeal Centre has erred in law by holding that Consultant Re-imburement charges Rs. 13,72,967/- as under reporting of income in consequence of misreporting.

### **Relief sought**

1. Consider the additional supporting evidence since compiled by the appellant.

2. Set aside the penalty u/s 270A(9) in respect of addition u/s 14A as an amount of Rs. 24,93,447/- has been added back in the computation, which is more than the amount of Rs. 20,78,990/- estimated by the officer.

3. Set aside the penalty u/s 270A(9), as the claim of expenditure towards Licence Fee paid on behalf of Doctors Rs. 13,87,311/- and Consultant Re-imburement charges Rs. 13,72,967/- and is substantiated by evidence.

2. The brief facts of the case are that during the course of assessment proceedings, the AO made three additions while completing the assessment u/s. 143(3) which are disallowance under Rule 8D of Rs.13,75,204, disallowance of licence fee paid on behalf of Doctors of Rs.13,87,301 and disallowance of consultant reimbursement charges of Rs.13,72,967. The AO initiated penalty proceedings u/s. 270A for the above underreported/misreported income and penalty was calculated at Rs.25,55,728. Aggrieved from the penalty order, the assessee filed appeal before the First Appellate Authority (FAA).

3. During the appellate proceedings, the assessee made detailed written submissions and reiterated submissions made before the AO which has been incorporated in para 4 of the assessment order. Before the CIT(Appeals), the assessee further submitted that the assessee is opting for Vivad Se Vishwas Scheme which remained unresponded and requested to take a lenient view and not to consider the additions as misreported or underreported income u/s. 270A. It was submitted that the assessee could not furnish requisite documents in support of additions made during the assessment proceedings and penalty proceedings and it was in the process of collecting information for substantiating its case. The FAA after considering the submissions of the assessee dismissed the appeal of the assessee. Against this, the assessee is in appeal before the Tribunal.

4. The Id. AR of the assessee reiterated submissions made before the authorities below and has filed additional evidence as per Rules 29, 30 & 31 of ITAT Rules, 1963 vide letter dated 22.03.2024 and submitted details of expenditure of licence fees paid and source of payment of Rs.13,87,311 (Exhibit 3 to 5) and documents and source of payment of consultant reimbursement charges of Rs.13,72,967 (Exhibit 1 & 2). The assessee had bonafide reasons for not producing the above evidence during assessment and penalty proceedings and now the assessee is able to collect data from the concerned recipients and produced as additional evidence and requested that the same may be admitted and the issues may be sent back to the AO for reconsideration.

5. On the other hand, the Id. DR relied on the order of the lower authorities and submitted that the assessee got ample opportunity for producing the evidence before lower authorities, but the assessee did not do so, therefore additional evidence should not be accepted. Both the authorities had discussed the issues in detail and penalty should be confirmed u/s. 270A of the Act.

6. Considering the rival submissions, we note that during the course of assessment proceedings as well as penalty proceedings, the assessee did not produce the details and documents and now the assessee has produced for the first time before us as additional evidence as per Exhibit 1 to 5 which is placed on record. We consider that the additional evidence is important to decide the issues and it is to

be examined by the lower authorities. Therefore, we admit the additional evidence and restore the issues in appeal in respect of penalty proceedings u/s. 270A of the Act to the file of Assessing Officer for fresh consideration and decision as per law after giving reasonable opportunity of being heard to the assessee. The assessee shall not seek unnecessary adjournment for early disposal of the appeal and produce all the required documents before the AO.

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

Pronounced in the open court on this 04<sup>th</sup> day of April, 2024.

Sd/-  
( GEORGE GEORGE K. )  
VICE PRESIDENT

Sd/-  
(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 04<sup>th</sup> April, 2024.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.