

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.524/Bang/2024
Assessment Year: 2015-16

M/s. Pixel Pictures Private Limited No.561, 3 rd Main, 11 th Cross West of Chord Road 2 nd Stage Bangalore 560 086 PAN NO : AAHCP5197P	Vs.	ITO Circle-3(1)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Ravishankar, A.R.
Respondent by	:	Shri V. Parithivel, D.R.

Date of Hearing	:	06.05.2024
Date of Pronouncement	:	06.05.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”) for the assessment year 2015-16 dated 17.1.2024. The assessee has raised following grounds of appeal:

1. *“The order of the learned Commissioner of Income-tax (Appeals)-National faceless Appeal Centre (NFAC), Delhi, in so far as it is against the appellant is opposed to law, equity, facts, weight of evidence, probabilities and circumstances of the case.*
2. *The appellant denies itself to be assessed to an income over and above the returned income of Rs.69,91,650/- on the facts and circumstances of the case.*
3. *The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (in short CIT (A)), is not justified in confirming the adhoc additions of Rs. 51,84,235/- mechanically made by the learned Assessing officer which is bad in law under the facts and circumstances of the case.*

4. *The learned authorities below have erred in not accepting the nature of business of the appellant and has disallowed an adhoc amount of 20% of the expenses claimed during the year without providing any basis for making addition.*
 5. *The learned authorities below are not justified in disallowing a sum of Rs 51,84,235/- without adducing any reasons and the provisions under which the impugned disallowance has been made from facts and circumstances of the case and hence is bad in law.*
 6. *The learned authorities below erred in disallowing a sum of Rs. 51,84,235/- being 20% of all the expenses claimed, the reasons best known to him, without appreciating the fact that the expenses were incurred wholly and exclusively for the purpose of business.*
 7. *The addition made is erroneous, illogical and without substance and hence the order of the learned assessing officer is bad in law, liable to be set aside from the facts and circumstances of the case.*
 8. *The order of the learned authorities below in estimating the expenses for disallowance in an arbitrary and mechanical manner without adducing any reasons is bad in law and the entire order is liable to be set aside.*
 9. *The learned authorities below erred in concluding the impugned orders without providing sufficient opportunity of being heard before passing the order.*
 10. *The learned AO failed to give an opportunity of being heard. The learned AO in the order has stated that the assessee has not furnished any reply to the notices issued. The appellant was unable to furnish the details as per the notice within the due date due to unavoidable circumstances as the Finance Manager was unwell and was recovering from a heart surgery.*
 11. *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds urged above.*
 12. *In view of the above and any other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed in the interest of justice and equity.”*
2. Facts of the case are that the assessee is assessed to tax and is borne on the records of Income Tax the Circle-3(1)(1), Bangalore. The assessee filed its return of income on 31.10.2015 Rs.69,91,650/- . The return was selected for scrutiny and after due examination, verification, enquiries and corroboration of the documents, evidences and submissions, the assessment u/s 143(3) of the Act was

completed on 27.12.2017 by making additional income of 51,84,235/-. The assessee is a domestic Private Limited company and is engaged in the business of providing production house facilities to top television channels in the southern region of India. The assessee filed its return of income on 31.10.2015 declaring gross total income of Rs.69,91,650/-. The assessee case was selected for scrutiny under manual selection and notice u/s 143(2) and 142(1) of the Act were issued by the learned AO and the details called for are furnished. However, the ld. A.R. submitted that for the notices issued on 13.10.2017, 26.10.2017 and 09.12.2017 reply was not submitted due to unavoidable circumstances as the Finance Manager was unwell and was recovering from a heart surgery. He submitted that the learned authorities below erred in disallowing a sum of Rs. 51,84,235/- being 20% of all the expenses claimed, the reasons best known to him, without appreciating the fact that the expenses were incurred wholly and exclusively for the purpose of business. In view of the above, the ld. A.R. for the assessee prayed that the appeal may be allowed in the interest of justice and equity.

2.1 Before the ld. AO, the assessee was given the following opportunities:

Sl.No.	Notice	Date of Notice	Reply
1.	143(2)	19/09/2016	Assessee submitted the financials through post
2	142(1) r.w.s. 129	14/06/2017	Assessee submitted the financials through post.
3.	Hearing notice through E-Mail	13/10/2017	No reply
4.	Hearing notice through E-Mail	26/10/2017	No reply
5.	Hearing Notice through E-Mail	09/12/2017	No reply

2.2 Further, there was no cooperation before Id. AO by the assessee. Hence, he made an addition of Rs.51,84,235/-. Against this assessee went in appeal before Id. CIT(A). Ld. CIT(A) has given the opportunities to the assessee for hearing as below:

Sl. No.	DIN/Notice No.	Date of issue of notice	Date fixed for hearing
1.	ITBA/NFAC/ 1029237267 (1)	24.12.2020	31.12.2020
			On 31.12.2020, neither any compliance received nor any adjournment letter was filed.
		01.01.2021	On 01.01.2021 adjournment letter was filed by the appellant/AR and same was granted.
2.	ITBA/NFAC/1058136245(1)	22.11.2023	01.12.2023
			On 01.12.2023, neither any compliance received nor any adjournment letter was filed.
3.	ITBA/NFAC/1058593593(1)	08.12.2023	15.12.2023
			On 15.12.2023, neither any compliance received nor any adjournment letter was filed.
4.	ITBA/NFAC/1058926098 (1)	20.12.2023	28.12.2023
			On 28.12.2023, neither any compliance received nor any adjournment letter was filed.
5	ITBA/NFAC/1059406495 (1)	05.01.2024	11.01.2024 Final Opportunity

			On 11.01.2024, neither any compliance received nor any adjournment letter was filed.
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3. Thus, there was no response from the assessee. Before us, ld. A.R. submitted that assessee was not able to participate before the lower authorities due to unavoidable circumstances as the Finance Manager was unwell and he was recovering from heart surgery and prayed that the entire issue in dispute may be remitted back to the file of ld. AO for fresh consideration. Considering the facts and circumstances of the case, in our opinion, it is appropriate to remit the entire issue in dispute to the file of ld. AO for fresh consideration to decide the same after giving opportunity of hearing to the assessee.

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

Order pronounced in the open court on 6th May, 2024

Sd/-
(Keshav Dubey)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 6th May, 2024.
VG/SPS
Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.