

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No. 6060/DEL/2019
Assessment Year: 2014-15**

SRS Modern Sales Ltd., C/o SRS Mall, 3 rd Floor, Sector-12, Faridabad-121007. PAN- AAKCS 6726 L	<u>Vs</u>	DCIT, Central circle-II, Faridabad.
APPELLANT		RESPONDENT
Assessee represented by	Shri Deepesh Garg, Adv.	
Department represented by	Shri Anuj Garg, Sr. DR	
Date of hearing	21.05.2024	
Date of pronouncement	28.05.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned CIT (Appeals)-3, Gurgaon, dated 31.03.2019, pertaining to the assessment year 2014-15. The assessee has raised following grounds of appeal:

"1) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in framing the impugned assessment u / s 143(3) of the Income Tax Act, 1961 and in any view of the matter and in any case, the assessment framed by Ld. Assessing officer is bad in law and against the facts of the case.

2) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making disallowances of Rs.26,33,438/ on account of processing fees u / s

37 of the Income Tax Act, 1961 and more so by alleging failure of the assessee to produce bills and vouchers.

3) That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the disallowance of processing fee of Rs. 26,33,438/- made in the assessment order is bad in law and against the facts and circumstances of the case.

4) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making disallowance of Freight charges of Rs. 2,87,887/- u/s 37 of the Income Tax Act, 1961 and more-so by alleging failure of the assessee to produce bills and vouchers.

5) That in any case and in any view of the matter, action of Ld. CIT(A) in confirming, the disallowance of Freight Charges of Rs.2,87,887/- made in the assessment order is bad in law and against the facts and circumstances of the case.

6) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making disallowance of Finance Charges of Rs. 12, 64, (960 / (- u)) / s, 37 of the Income Tax Act, 1961 Ltd. and more-so by alleging failure of the assessee to produce bills and vouchers

7) That in any case and in any view of the matter, action of Ld. CIT(A) in confirming, the disallowance of Finance Charges of Rs. 12,64,960/- made in the assessment order is bad in law and against the facts and circumstances of the case.

8) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in charging interest u / s 234A, 234B, 234C & 234D, more so when such interest could not be levied under the law.

9) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. A.O. in passing the impugned order without giving adequate opportunity of being heard and by not observing the principles of natural justice.

10) That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other.”

2. At the outset learned counsel appearing on behalf of the assessee submitted that the assessee had filed petition being CP No. 10/Chd/Hry/2017, u/s 10 of the Insolvency and Bankruptcy (I&B) code, 2016, before the National Company Law Tribunal (NCLT) and in pursuance of order dated 26.02.2018 of the NCLT passed u/s 33 of the I&B Code the assessee has gone into liquidation. Learned counsel also submitted that in the said order the learned NCLT has also appointed liquidator. In support of his contention, the learned counsel has filed a copy of the order passed by the learned NCLT. Accordingly, learned counsel submitted that as per section 33(5) of the I&B Code, the present appeal cannot be proceeded and may be disposed of accordingly. Learned DR fairly conceded the aforesaid factual position.

3. Under the aforesaid admitted factual position, the present appeal filed by the assessee is dismissed with the liberty for approaching the Tribunal for recall of the order in the event Liquidator wishes to pursue the appeal. We order accordingly.

4. Appeal of the assessee is dismissed in terms, as indicated above.

Order pronounced in open court on 28th May, 2024.

Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Dated: 28.05.2024.

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI

