

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

Sr. No	Appeal Numbers	Assessment Years	Appellant	Respondent
1	ITA No.185/Chny/2014	2007-08	M/s.Saj Flight Services Pvt. Ltd., No.27, Signal Office Road, Pammal, Chennai – 600 075 [PAN:AAACS9646P]	ACIT Company Circle-4(1), Chennai-34

अपीलार्थी की ओर से/ Appellant by : None
प्रत्यर्थी की ओर से /Respondent by : Shri G.Suresh, JCIT
सुनवाई की तारीख/Date of Hearing : 09.05.2024
घोषणा की तारीख /Date of Pronouncement : 29.05.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is instituted in view of the MA No.91 /Chny/ 2018.

1. Brief facts of the case are that the assessee had contested the order of Ld.CIT(A) dated 30.10.2013 in ITA No.844 / 13-14 passed u/s 143(3) read with sections 147 and 250 of the Act before this tribunal. Vide order ITA No.185/Mds./2014 dated 20.03.2014. This tribunal had dismissed the appeal in view of non-compliance on the part of the assessee by applying the judicial ratio laid down in CIT vs Multi Plan 38 ITD 320 (Delhi). The assessee again pleaded for restoration of its appeal and consequently vide MA No.91/Chny/2018 dated

13.10.2023, the appeal of the assessee was allowed and restored for adjudication.

2. Material available on record indicate that even though this is the second round of adjudication before this tribunal, the assessee has chosen to remain non-compliant which is evident from continuous non-attendance on the part of the assessee. Accordingly, this appeal is being decided on the basis of material currently available on records and on merits. The Ld. DR concurred with this decision of the Bench.

3. In the instant case order u/s 143(3) dated 31.12.2009 was passed by the assessing officer circle VI(1), Chennai making certain additions to the return income. Aggrieved by the same, the assessee contested before the Ld. CIT(A) who has since passed his order in ITA No.844 / 13-14 dated 13.10.2013, being the order in dispute.

4. Perusal of Form-36 filled by the assessee shows that it has raised some 22 grounds of appeal. Accordingly, the grounds raised are adjudicated as under:-

5. Ground of appeal No.1 is routine and general in nature and hence bereft of any adjudication.

6. Ground of appeal No.2 is regarding assessee not been provided reasonable opportunity by the Ld.CIT(A). On perusal of the Para-2 of order of Ld.CIT(A) Supra it is seen that in compliance to notices issued, Shri Reji Varghese, Director of the assessee company appeared and filed return statements in

support of its claims and the case was discussed with him. Thus, seen the argument of the assessee is not supported with the facts on records. Consequently, the Ground of appeal No.2 is dismissed.

7. Ground of appeal No.3 & 4 are regarding the disallowance of advertisement charges of Rs.4,16,032/-. The Ld. CIT(A), has recorded in his order that the addition was made by the AO on account of non-production of entire bills and voucher by the assessee and that the same were also not produced even before the Ld.CIT(A). Accordingly, the action of Ld.CIT(A) in confirming the addition made by the AO is upheld and Ground of appeal No.3 & 4 is dismissed.

8. Ground of appeal No.5 & 6 are regarding the disallowance of garden expenses of Rs. 35,948/-. The Ld. CIT(A), has recorded in his order that the addition was made by the AO on account of non-production of entire bills and voucher by the assessee and that the same were also not produced even before the LD. CIT(A). Accordingly, the action of Ld.CIT(A) in confirming the addition made by the AO is upheld and Ground of appeal No.5 & 6 are dismissed.

9. Ground of appeal No.7, 8 & 9 are regarding the addition of Rs.5,59,515/- on account of office expenses. The Ld. CIT(A), has recorded in his order that the addition was made by the AO on account of non-production of entire bills and voucher by the assessee and that the same were also not produced even before the Ld.CIT(A). Accordingly, the action of Ld.CIT(A) in confirming the

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addition made by the AO is upheld and Ground of appeal No.7, 8 & 9 are dismissed.

10. Ground of appeal No.10, 11, 12 & 13 are regarding the addition of Rs.10,05,350/- under the head repairs and maintenance. While confirming the addition made by the AO, the Ld.CIT(A) has recorded that the assessee failed to provide full evidence to him. Accordingly, the addition made by the AO is upheld and Ground of appeal No.10, 11, 12 & 13 are dismissed.

11. Ground of appeal No.14, 15 & 18 are regarding the addition of Rs.8,08,320/- an account of vehicle expenses. While confirming the addition made by the AO, the Ld.CIT(A) has recorded that the assessee failed to provide full evidence to him. Accordingly, the addition made by the AO is upheld and Ground of appeal No.14, 15 & 18 are dismissed.

12. Ground of appeal No.16 is regarding the Ld.CIT(A) not considering the additional grounds raised by the Appellants. The Ld.CIT(A) has given a finding in the Page.3 of his order regarding the filing of additional grounds of appeal by assessee vide his petition dated 28.10.2010. Further, in Para-5 of Page-5 of his order, Ld.CIT(A) has observed that *"....I have considered this submissions of the AR of the assessee as well as the findings given the assessment order, remand report carefully and also perused the various judicial pronouncements cited by the AR of the assessee. The decision in respect of each ground of appeal filed by the assessee are as under....."*. A perusal of the same alludes

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that the Ld.CIT(A) has considered all the grounds raised by the Appellants during the course of his adjudication and hence the Ground of appeal No.16 is dismissed.

13. Ground of appeal No.17 is regarding the confirmation by the Ld. CIT(A) of the addition of Rs.2,76,120/- on account of depreciation on water treatment plant or a temporary structure. The Ld.CIT(A) has clearly recorded in Page-6 of his order that the “...*the AR of the assessee in the course of appellate proceedings did not press this ground...*”. Accordingly, the contention of the assessee in raising the ground of appeal is not correct and hence the Ground of appeal No.17 is dismissed.

14. Ground of appeal No.19, 20 & 21 are regarding the confirmation of 1 lac under the head telephone expenses. It is seen that the AO had made an addition of Rs.3,35,570/- being 20% disallowance of telephone expenses amounting to Rs.16,77,849/-. After considering evidence produced by the assessee, the Ld.CIT(A) restricted the addition to Rs.1 lacs as expenses for non-business purposes. The action of the Ld. CIT(A) has been found to be in order. Accordingly, Ground of appeal No.19, 20 & 21 are dismissed.

15. Ground of appeal No.22 is regarding the order of the Ld. CIT(A) being erroneous, illegal and contrary to provisions of Income Tax Act. Upon careful perusal of the order of Ld.CIT(A), it has been found that there is nothing on records to indicate that the order of the CIT(A) is erroneous, illegal and contrary

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to provisions of Income Tax Act. Accordingly, Ground of appeal No. 22 is dismissed.

16. In the result, the appeal is dismissed.

Order pronounced on 29th May, 2024.

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष / Vice President

Sd/-
(श्री अमिताभ शुक्ला)
(Amitabh Shukla)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 29th May, 2024.

kb/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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