

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**AND**

**SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

**ITA NO. 1051/MUM/2024 (A.Y: 2011-12)**

<b>AD ELECTRONICS PRIVATE LIMITED (NOW MERGED WITH REXEL INDIA PRIVATE LIMITED)</b> 602, Sunrise Business Park Road No. 16, Wagle Estate Thane (W), Mumbai - 400604  <b>PAN: AAACA7277J</b> <b>(Appellant)</b>	<b>v.</b>	<b>ITO WARD 12(1)(2)</b> Aayakar Bhavan Maharishi Karve Road New Marine Lines Churchgate, Mumbai -400020  <b>(Respondent)</b>
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<b>Assessee Represented by</b>	<b>:</b>	<b>Ms. Kinjal Bhuta</b>
<b>Department Represented by</b>	<b>:</b>	<b>Shri Harmesh Lal</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>05.06.2024</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>05.06.2024</b>

**ORDER**

**PER NARENDRA KUMAR BILLAIYA (AM)**

**1.** This appeal by the assessee is preferred against the order dated 09.01.2024 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2011-12.

**2.** The solitary grievance of the assessee is that the Ld. CIT(A) erred in confirming the addition of ₹.21,12,356/- on account of legal and professional charges paid under section 37 of Income-tax Act, 1961 (in short "Act").

**3.** Briefly stated the facts of the case are that the, assessee filed its return of income on 31.07.2011 declaring total income at ₹.2,08,72,959/-. The return was processed under section 143(1) of the Act vide intimation dated 06.07.2012. Subsequently, the assessment was reopened under section 147 of the Act. The reasons for reopening the assessment is the payment of "Legal and Professional Charges". Accordingly, statutory notices were issued and served upon the assessee. In response to which the assessee filed a reply stating that the return filed originally should be considered as filed against the notice under section 148 of the Act.

**4.** During the course of the assessment proceedings, the assessee was asked to explain the payment of ₹.21,12,356/- claimed as legal and professional charges. In its reply, assessee explained that the said legal and professional charges were incurred for advise on proposal of merger.

**5.** It appears that the Assessing Officer completely misunderstood the facts and on wrong facts assumed that the assessee has received legal and professional charges of ₹.21,12,356/- and went on to examine the same in the light of the business of the assessee and came to the conclusion that the assessee company's primary business is of Industrial Electronics Goods and income earned from this business is the main source of income. The Assessing Officer further observed that no data whatsoever has been produced by the assessee company in the previous or succeeding year of the assessment year under consideration to prove that it is also in the business of giving legal advice in respect of merger and that income from such legal advice was more than the income from industrial electronic goods. The Assessing Officer concluded by making addition of ₹.21,12,356/-.

**6.** We have carefully perused the assessment order. As mentioned elsewhere, since the Assessing Officer proceeded on wrong facts, assessment has also been framed on wrong facts. Firstly, the assessee has paid legal and professional charges of ₹.21,12,356/- and not received the charges. The legal and professional charges have been paid on procuring advice for the process of merger and the charges have been paid to Cipher Advisors and DSK Legal as per the copies of

the invoices exhibited at Page Nos. 12 to 15 of the Paper Book. We further find that during the course of the assessment proceedings itself on 07.10.2016 in its reply the assessee has furnished complete details of legal and professional charges of ₹.21,12,356/-. Again vide letter dated 07.12.2016 assessee gave a detailed reasoning for legal and professional charges of ₹.21,12,356/-. As mentioned elsewhere, since the Assessing Officer proceeded on wrong facts, therefore, concluded erroneously. The Ld. CIT(A) grossly erred in confirming the assessment based on wrong facts. Therefore, the order of the Ld. CIT(A) deserves to be set-aside. The Assessing Officer is directed to delete the impugned addition.

**7.** In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 05<sup>th</sup> June, 2024.

**(SANDEEP SINGH KARHAIL)**  
**JUDICIAL MEMBER**

Mumbai / Dated 05.06.2024  
Giridhar, Sr.PS

**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**