

GUMPTION LABS FINSERVE PVT LTD VS ITO, WARD 2(2), KOTA  
आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES,"SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 417/JP/2023  
निर्धारण वर्ष / Assessment Year : 2016-17

M/s. Gumption Labs Finserve Pvt. Ltd. 202-B, Mangal Bhawan, Near Balmandir School, Station Road, Kota - 324001	बनाम Vs.	The ITO Ward 2(3) Kota
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AADCG 4768 M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Shrawan Kumar Gupta Advocate  
राजस्व की ओर से / Revenue by: Shri Rajesh Kumar Meena, Addl. CIT

सुनवाई की तारीख / Date of Hearing : 28/05/2024  
उदघोषणा की तारीख / Date of Pronouncement: 05 /06/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 29-05-2023, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2016-17 wherein the assessee has raised the following grounds of appeal.

“1. That the ld CIT(A) erred in not allowing the ground “that the AO grossly erred in law and facts on conversion from Limited Scrutiny to Full Scrutiny in the end informing on 10-12-2018 as case was going time barred on 31-12-2018 and informing different dates of

approval from Pr. CIT, Kota for conversion and the ld. Pr. CIT(A) has not considered this ground.”

2. That the ld CIT(A) erred in not allowing the ground “That the AO grossly erred on law and facts for disallowing salary expenses of Rs.19,19,832/- for reason of non-availability of PAN with assessee and the ld. CIT(A) has not considered this ground.”

3. That the ld CIT(A) erred in not allowing the ground “That the AO grossly erred on law and facts for disallowing Bonus Expenses of Rs.63,958/- for the same reason salary disallowance and the ld. CIT(A) has not considered this ground.”

4. That the ld CIT(A) erred in not allowing the ground “That the AO grossly erred on law and facts for disallowing printing, stationary office consumable expenses of Rs.13,093/- being again 20% of total such expenses and the ld. CIT(A) has not considered this ground.”

5. That the ld CIT(A) erred in not allowing the ground “That the AO grossly erred on law and facts for disallowing Madmini E-mail Subscription of Rs.1,66,428/- being 100% of total such expenses and the ld. CIT(A) has not considered this ground.”

6. That the ld CIT(A) erred in not allowing the ground “That the AO grossly erred on law and facts for disallowing Training and Certificate expenses of Rs.18,259/- being again 25% of total such expenses and the ld. CIT(A) has not considered this ground.”

7. That the ld CIT(A) erred in not allowing the ground about set off of previous years losses & depreciation and set aside on this ground which he ought to decide. That there are pending losses & depreciation of Rs.28,14,765/- A.Y. 2013-14 – 11,71,975 (A.Y. 2014-15 – 14,86,911/- A= 26,40,866 Depreciation to be set off A.Y.2012-13 – 15,407, A.Y.2023-14 – 64236, A.Y. 2014-15 – 94,236 B = 17,38,879 = 28,14,765.”

2.1 The Ground No. 1 of the assessee is relating to invalid assessment u/s 143(3).

2.2 At the very outset of the case, the Bench noticed that the case of the assessee was selected through CASS for limited scrutiny on the issue of Large Sales Promotion Expenses claimed in the P&L account. In this regard, the ld. AR of the assessee that the AO without seeking approval for converting limited scrutiny case into complete scrutiny had initiated the process of assessment by issuing notice and thus the order passed by the AO is bad in law. However, on the contrary, the ld. DR relied on the order passed by the Revenue Authorities and also submitted that the AO had passed the order of assessment only after getting the approval from the competent authority. In this from the records, the Bench noticed that the AO had issued notice u/s 143(2) and 142(1) of the Income Tax Act, 1961 on 15-11-2018. Although necessary approval for converting the limited scrutiny case into complete scrutiny was accorded on 4-12-2018 yet the said approval was intimated to the assessee on 10-12-2018 and thereafter notice u/s 142(1) of the Act was issued on 13-12-2018. In compliance thereof, the ld. AR submitted the documents on 17-12-2018 before the AO but failed to provide necessary documents. Thereafter, again final opportunity was given to the assessee by the AO by issuing notice u/s 142(1) dated 18-12-2018 of the Act but still the assessee failed to comply with the said notice and thus in this way the AO completed the assessment on 21-12-2018. The Bench is of the view that the approval was accorded on 4-12-2018 for converting limited scrutiny case into complete scrutiny and thereafter necessary / statutory

notices were issued to the assessee and ultimately the assessment was completed on 21-12-2018 i.e. after getting the approval from the competent authority. Thus, in this way, no prejudice had been caused to the right of the assessee and even the ld. AR of the assessee during the course of argument has not been able to demonstrate as to which manner his rights have been prejudiced more particularly when approval was accorded on 4-12-2018 and the AO completed the assessment on 21-12-2018. During the course of hearing, the ld. AR of the assessee relied upon the decision of ITAT Delhi Bench in the case of Dev Milk Foods Pvt. Ltd. Vs Addl. CIT (ITA No. 6767/Del/2019) but the pari materia contained in the said judgement / order is altogether different from the facts of the present case as in the case of Dev Milk Foods Pvt. Ltd. Vs Addl. CIT (supra). The Bench further noted that the assessee had challenged the approval accorded by the ld. PCIT and the issue therein was as to whether it was legal in converting limited scrutiny case into complete scrutiny case. However, as per facts of the present case, this issue is not in question. The only argument raised by the ld. AR of the assessee in the present case is that the AO initiated the process prior to getting approval for converting limited scrutiny case into complete scrutiny case but as discussed above, the Bench has made it clear that approval in this case was accorded much prior to completion of assessment and no prejudice has been shown to have been caused to the assessee. Thus the Ground No. 1 raised by the assessee stands dismissed.

3.1 The Ground No. 2 and 3 of the assessee relate to disallowance of salary expenses. In this regard, the ld. AR of the assessee relied upon the written submission filed by him whereas the ld DR supported the orders of the lower authorities.

3.2 After hearing both the parties and perusing the materials available on record including the written submission of the ld. AR of the assessee, the Bench noticed that the assessee had shown salary expenses of Rs.51,13,999/- and in order to support his claim, the assessee was asked to provide PAN, Appointment Orders, Form No. 16, Qualifications etc. of the employees, however out of 28 employees claimed to have been appointed by the assessee, necessary Form No. 16 of just 05 employees were submitted and TDS of those 05 employees had been deducted and with regard to remaining 23 employees, no other documentary evidences were filed by the assessee. Although the assessee was given final opportunity by the Revenue Authorities yet the assessee could not produce the employees and could not file necessary documents in support of his claim like address, PAN etc. of the employees. Apart from this, it is noticed that the assessee had shown expenses under the head Bonus but no supporting documents such as PAN, Address, Appointment with regard to the employees to whom Bonus paid was produced. Therefore, considering these facts, the Bench feels that the ld.CIT(A) had rightly rejected the claim of the assessee while upholding the order of assessment. Hence,

the Bench does not find any reason to interfere in the well reasoned order of the Id CIT(A) which is confirmed. Thus Ground No. 2 & 3 of the assessee are dismissed.

4.1 The Ground No. 4 of the assessee relates to disallowance of printing stationary, office consumable expenses.

4.2 After hearing both the parties and perusing the materials available on record including the orders of the lower authorities and written submissions of the assessee, the Bench noticed that a sum of Rs.52,373/- has been spent by the assessee as expenses incurred on printing, stationary and office consumable. However, the assessee failed to produce the bills and evidences in support of the expenses incurred. Therefore, the Id. CIT(A) rightly restricted the addition to the extent of 25% of the total addition as made by the AO which does not require any interference in the order of the Id. CIT(A). Thus Ground No. 4 of the assessee is dismissed.

5.1 The Ground No.5 of the assessee relates to disallowance of Madmini E-Mail subscription expenses of Rs.1,66,428 @ 100%.

5.2 After hearing both the parties and perusing the orders of the lower authorities and written submission of the assessee, the Bench noticed that the assessee had paid the expenses through credit card for which the assessee had failed to provide the copy of statement of credit card expenses before the AO. Therefore, in absence of any genuine evidence, the total expenses of Rs.1,66,428/-

is disallowed by the AO and the same has been confirmed by the Id CIT(A). In appeal before this Bench, it is noticed that there is no contrary material advanced by the assessee to rebut the action of the lower authorities. Hence, the Ground No. 5 is dismissed.

6.1 The Ground No. 6 of the assessee relating to disallowance of training and certification expenses of Rs.18,259/-. In this appeal, it is noted that the AO while making assessment noticed that the assessee had claimed expenses of Rs.73,036/- on training and certification expenses during the year and for want of bills/ vouchers/ evidence in support of the expenses, the AO disallowed 25% of the total expenses which is to the extent of Rs.18,259/-. In first appeal, the Id. CIT(A) has confirmed the action of the AO.

6.2 After hearing both the parties and perusing the orders of the lower authorities including the written submissions of the assessee, the Bench noticed that there is no contrary material / evidence advanced by the Id. AR of the assessee to rebut the action of the lower authorities. Hence, in this view of the matter, the Ground No. 6 of the assessee is dismissed.

7.1 As regards the Ground No. 7 of the assessee relating to not allowing the set off of previous year loss and depreciation but set aside the same. In this case, it is noted that the Id. CIT(A) has partly allowed this ground of appeal by holding as under:-

“5.9.4 The AO is directed to verify the returns of income filed by the appellant for earlier assessment years, verify the appellant’s claim of brought forward losses and give effect to the brought forward losses, if any, in accordance with the relevant provisions of law. This ground is partly allowed.”

7.2 After hearing both the parties and perusing the orders of the lower authorities including the written submissions of the assessee, the Bench noticed that there is no contrary material / evidence advanced by the ld. AR of the assessee to rebut the action of the lower authorities. Hence, in this view of the matter, the Ground No. 7 of the assessee is dismissed.

8.0 In the result, the appeal filed by the assessee is dismissed

Order pronounced in the open court on 05 /06/2024.

Sd/-  
(संदीप गोसाईं)  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 05/06/2024

\*Mishra

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- M/s. Gumption Labs Finserve Pvt.Ltd. Kota
2. प्रत्यर्थी / The Respondent- The ITO, Ward 2 (2), Kota
3. आयकर आयुक्त / The ld CIT
4. आयकर आयुक्त(अपील) / The ld CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 417/JP/2023)

आदेशानुसार / By order,

Asstt. Registrar