

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.09/PUN/2024

निर्धारण वर्ष /Assessment Year : 2018-19

|   |     |                         |
|---|-----|-------------------------|
| Medsonway Solutions Private Limited,<br>Building B, Office No.2,<br>Prakash Niwas, H.No.124,<br>Shukrawar Peth, Pune 411 002<br>Maharashtra<br>PAN : AAJCM3805F | Vs. | ACIT, Circle-7,<br>Pune |
| Appellant   |     | Respondent              |

Assessee by : Shri Pramod S. Shingte  
Revenue by : Shri Sandeep P. Sathe

Date of hearing : 24.06.2024  
Date of pronouncement : 24.06.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 06.11.2023 for the assessment year 2018-19.

2. Briefly, the facts of the case are as under :

The appellant is a company incorporated under the provisions of Companies Act, 2013. The appellant is engaged in the business of purchase and sale of Medicines on the online platform to be developed by it. The Return of Income for the A.Y. 2018-19 was filed on

31.10.2018 disclosing loss of Rs.1,60,41,605/- under the head 'Business Income'. Against the said return of income, the assessment was completed by the Assessing Officer (AO) vide order dated 08.04.2021 at a total income of Rs.4,05,87,266/-.

While doing so, the AO made addition of Rs.3,49,62,210/- in respect of share premium under the head 'Income from other Sources' invoking the provisions of section 56(2)(viib) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') with which we are not concerned. The AO also made addition of Rs.56,25,056/- as unexplained expenditure u/s.69C of the Act on account of Sales Promotion expenditure debited to the profit and loss account by holding that the appellant had failed to offer satisfactory explanation as to the sources of this expenditure.

3. On appeal the Id. CIT(A)/NFAC had confirmed the addition made u/s.69C of the Act taking note of the fact that the appellant had failed to submit any bills/vouchers, proof of evidence.

4. Being aggrieved, the assessee is in appeal before the Tribunal in the present appeal.

5. The Id. AR submits before us that the assessee had debited the expenditure to the profit and loss accounts in the books of account and

the question of treating it as unexplained expenditure does not arise placing reliance on the judgment of Hon'ble Delhi High Court in the case of *CIT Vs. M/s. Radhika Creation in ITA No.692/2009, dt. 30.04.2010*.

6. On the other hand, the Id. DR placing reliance on the orders of the lower authorities submits that no interference is called for.

7. We heard the rival submissions and perused the material on record. The solitary issue which arises for our consideration is whether or not the provisions of section 69C are applicable or not in the facts of the present case? Admittedly, it is not the case of the Revenue that the Sales Promotion expenses of Rs.56,25,056/- was not debited to the profit and loss account and not accounted in the regular books of account. Needless to say, once the expenditure is accounted in the regular books of account, source is obviously explained and the provisions of section 69C have no application. In this connection, the relevant observation made by the Hon'ble Delhi High Court is extracted below :

*“6. What the Assessing officer attempted to do was to go into the authenticity of the expenditure and he returned a finding that the expenditure was not authenticated by vouchers and consequently, he added the said expenditure as unexplained expenditure under Section 69C. We are in agreement with the observations and findings of the Commissioner of Income-tax (Appeals) as well as that of the Income-tax Appellate Tribunal that this is not a case which falls under Section 69C. Clearly, Section 69C refers to the “source of the expenditure” and not to the expenditure itself. Consequently, the Assessing Officer was clearly wrong in treating the said expenditure as unexplained*

*expenditure under Section 69C of the said Act and the lower appellate authorities were right in their conclusions in deleting the said addition.”*

The above observations made by the Hon’ble Delhi High Court are squarely applicable to the facts of the present case. In the light of this discussion, we are of the considered opinion that the lower authorities were clearly wrong in treating the expenditure as unexplained under the provisions of section 69C of the Act. Thus, the appeal filed by the assessee stands allowed.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this 24<sup>th</sup> day of June, 2024.

**Sd/-**  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 24<sup>th</sup> June, 2024

*Satish*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “A” बेंच,  
पुणे / DR, ITAT, A” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune