

IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH MUMBAI

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No. 1017/MUM/2024
(Assessment Year :2013-14)**

M/s AMPD Education India Private Limited C/o, Ajay Srivastava, B-3102, Gokul Concorde, Dattani Park, Mumbai - 400101	Vs.	Jt. Commissioner of Income Tax (Appeals), Mysore(NFAC) ITO, Ward 1(1), Thane, Room No. 23, 6 th Floor, B-Wing, Ashar IT Park, Road No. 16Z, Wagale Industrial Estate, Thane West - 400604
PAN/GIR No.AAJCA3588P		
(Appellant)	..	(Respondent)

Assessee by	Shri Prakash Jotwani
Revenue by	Ms. Kakoli Ghosh
Date of Hearing	26/06/2024
Date of Pronouncement	28/06/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 08/01/2024 passed by Addl./JCIT(A)-Mysore for the quantum of assessment passed u/s.144 for the A.Y.2013-14.

2. The assessee is aggrieved by confirming of adhoc disallowance of 30% of the expenses debited in the profit and loss account by the ld. AO by making the judgment assessment.

3. The brief facts are that assessee company was incorporated with the object to carrying out in India and abroad all types of education, skill development, learning and training in academic, cultural, computers, music etc., During the year assessee had shown gross receipts of Rs.72,30,743/- being fee from imparting education and incurred expenditure aggregating to Rs.67,70,570/-. The return of income was filed declaring total income of Rs.1,10,100/-. The ld. AO issued various notices to the assessee; however, all these notices remain uncomplied with. Accordingly, ld. AO disallowed 30% of following expenses debited to the profit and loss account on adhoc basis.

Sr. No.	Head of Expenses	Amount (in Rs.)
1	Salaries and Wages	3658557
2	Advertisement	462195
3	Sales Promotion	121510
4	Travelling Expense	38560
5	Telephone expenses	219586
6	Audit Fee	12000
7	Other expenses	2258162
	TOTAL	6770570

4. The ld. CIT(A) held that assessee has not submitted any bills, vouchers or any other documents to prove the genuineness of the expenses and has not discharged the onus and accordingly, he confirmed the adhoc disallowance of 30% of the expenses aggregating to Rs.20,31,171/-.

5. Before us, Id. Counsel for the assessee submitted most of the expenses debited had been paid through account payee cheques and through banking channels and wherever the Act required to deduct TDS assessee is also required to deduct TDS and has to deposit the same to the Government except for details of other sundry expenses and some of the expenses were in petty cash. In support of his contention, he has filed additional evidences before us and also stating the reason for not able to submit those documents before the Id. CIT (A). He further submitted that the books of accounts have been duly audited by the auditor and no such discrepancies have been found.

6. On the other hand Id. DR strongly relied upon the order of the First Appellate Authority and submitted that assessee has not produced any documents or details either before the Id. AO or before the Id. CIT (A). Thus, the order of the Id. CIT(A) should be confirmed.

7. From the perusal of the assessment order, it is seen that the notices sent by the Id. AO remained uncomplied with and even before the Id. CIT (A), the details as required was not furnished. It has been stated before us that at the time when hearing took place assessee was not carrying out any business and it had become dormant company and there are no staff working for the assessee company. Thus, the documents which have been filed before us contains the entire details of all the expenses, details of TDS deducted and copy of ledger accounts in the form of additional evidences. For admission of these evidences assessee

has filed an affidavit stating the reasons as to why these documents cannot be filed.

8. Looking to the fact that the addition has been made by the ld. AO purely on adhoc disallowance by disallowing 30% of the entire expenses debited, therefore we deem fit to take on record these additional evidences. From the perusal of the nature of expenses debited and the details furnished before us, it is seen that in so far as expenses relating to employee/ professional remuneration, details of advertisement expenses assessee has incurred all the expenditure and had made the payment through banking channels and account payee cheques and TDS has been deducted. Apart from that, business promotion expenses, electricity expenses, telephone expenses, travelling expenses and office expenses and audit fees and posting of printing stationery have been all incurred through account payee cheques which are backed by third party bills. Thus, no adhoc disallowance can be made under these heads. It is also only with regard to other sundry expenses for sum aggregating to Rs.22,28,162/-, few of expenses are incurred in cash which at the most can be said to be unverifiable. Thus, under the head 'other expenses', it would be reasonable to disallow 10% of such expenses as non-verifiable. Accordingly, the addition is restricted to 10% of other expenses, i.e. 2,25,816/-. The balance addition is deleted.

9. In the result, appeal of the assessee is partly allowed.

Order pronounced on 28th Jun, 2024.

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Mumbai; Dated 28/06/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL 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, Mumbai