

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

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

SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER

I.T.A. No. 1662/Mum/2024

Assessment Year: 2018-19

Nidhi Prashant Asrani, Mumbai 601, Asho Palav CHSL S.V. Road Borivali West Maharashtra - 4000092 [PAN: ANQPA1269G]	Vs	Income Tax Officer, Ward - (42)(1)(3), Mumbai
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri C.S. Biradar, A/R
Revenue by :	Shri R.R. Makwana, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : **11/07/2024**
घोषणा की तारीख /**Date of Pronouncement**: **11/07/2024**

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order dt. 15/02/2023 by NFAC, Delhi, pertaining to Assessment Year 2018-19.

2. The grievance of the assessee reads as under:-

"1. On facts and circumstances of the case and in law, the Ld. CIT(A) is erroneous in disallowing the payment made to M/s. Nidhi Enterprises on the ground that the reason of payment of Rs. 26,59,000/- made to M/s Nidhi Enterprises is not explained also not submitted supporting evidence even though the details were submitted explaining the payment to both the authorities.

2. On facts and circumstances of the case and in law, the Ld. CIT(A) is incorrect and erroneous in not accepting the details filed at the time of assessment as well as in the appeal proceedings that the payments made to M/s. Nidhi Enterprises are that of a distributor of Nearby Technologies Pvt Ltd for money transfer business.

3. The Commission earned from M/s Oxygen Services (India) Pvt Ltd has been declared in Profit & Loss A/c and Commission Income from M/s Nidhi Enterprise has been declared in Income From Other Sources.

4. The appellant pray that the Order of the Ld. CIT(A) on the above grounds the payments made to M/s Nidhi Enterprises of Rs 26,59,000/- for money transfer business may please be allowed.

5. The appellant craves leave to amend or alter any ground or add a new ground."

3. Having heard the rival contentions, we have carefully perused the orders of the authorities below.

4. Briefly stated the facts of the case are that, the assessee file her return of income electronically declaring income of Rs.3,28,650/-. The return was selected for scrutiny assessment through CASS and accordingly, statutory notices were issue and served upon the assessee.

5. During the course of scrutiny assessment proceedings, the assessee was asked to explain her business and the credits in her bank accounts. The assessee explained that she is engaged in the business of distribution, utilizing mobile, POS and web for online payment processing and money transfer services to retailers. It was explained that the assessee is a distributor of M/s. Oxygen Services (India) Pvt. Ltd. and M/s. Nidhi Enterprises. While scrutinizing the return of income, the AO notice that total payments made to the distributor were at Rs. 20,37,26,852/- whereas total credit was Rs.20,72,82,886/-. The assessee was asked to explain the difference of Rs.35,56,034/-. It was explained that the assessee has made payment of Rs.26,59,000/- to M/s. Nidhi Enterprise but on receiving no supporting evidence, the AO made the addition of Rs. 35,56,034/-.

5.1. Before the Id. CIT(A), the assessee reiterated her contention and pointed out that even the opening stock of Rs. 11,99,250/- was not

considered by the AO. The Id. CIT(A) was convinced that the assessee was having opening stock of Rs.11,99,250/- and giving relief of the same the Id. CIT(A) confirmed the addition of Rs.26,59,000/-.

6. Before us, the Id. Counsel for the assessee vehemently statement that the payment of Rs.26,59,000/- was made to M/s. Nidhi Enterprise which is duly reflected in the assessee's bank accounts.

7. We have carefully perused the orders of the authorities below. We are of the considered view that onus is on the assessee to demonstrate with evidence that payment of Rs.26,59,000/- was made to M/s. Nidhi Enterprise and is duly reflected in her bank statements. Therefore, in the interest of justice and fair play, we deem it fit to restore this issue to the file of the AO. The assessee is directed to demonstrate from the bank statements that, she has made payments to M/s. Nidhi Enterprise and the AO is directed to verify the same and decide the issue afresh after affording reasonable and adequate opportunity of being heard to the assessee.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 11th July, 2024 at Mumbai.

Sd/-

**(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

Sd/-

**(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER**

Mumbai, Dated 11/07/2024

S.C.S.P.

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आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. ँ पीलर्षी / The Appellant
2. प्रत्यर्षी / The Respondent
3. संबंघित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (ं पील) / The CIT(A)-
5. विभर्षीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai