

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

**SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 848/MUM/2024  
(Assessment Year: 2017-18)**

**Mammunhi Mohammed Talangara,**

512, Crescent Business Square,

Kherani Road, Sakinaka,

Andheri (East),

Mumbai - 400072

[PAN: AACPT1923F]

..... **Appellant**

Vs

**The Income Tax Officer – 19(2)(2)**

Room No. 503, Piramal Chamber,

Lalbaug, Parel,

Mumbai - 400012

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Gautam Varun Bramhecha

For the Respondent/Department : Shri Himanshu Sharma (CIT DR)

**Date**

Conclusion of hearing : 02.07.2024

Pronouncement of order : 15.07.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order, dated 25/05/2023, passed by the National Faceless Appeal Centre (NFAC) – Delhi, [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2017-18, whereby the appeal of the Assessee against the Rectification Order, dated 16/01/2020, passed under Section 154 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') was dismissed.

2. The Assessee has raised following grounds of appeal in ITA No. 848/Mum/2024:

1. *There has been a mistake in reporting the figure of Advertisement expenses of Rs.3,48,340/- by the Tax Auditor in Form 3CB-3CD. We would like to apologies for the inconvenience caused due to the above mis-reporting.*
2. *There is no payment made to political parties during the year which can be easily proved by looking at the newspapers clippings and Invoices. The advertisement expenditure is incurred for the purpose of recruiting of manpower. We are submitting Bank statements in addition to the earlier submitted Invoices, Ledgers and newspaper clippings.*
3. *Aerosea Travels and Tours is a proprietary concern of the appellant assessee. This fact was disclosed earlier in the Statement of Facts as well as the Financial statements submitted during first appeal proceedings. We are now submitting additional documents to prove that Aerosea Travels and Tours is a proprietary concern like GST Registration certificate, PT Registration Certificate.*
4. *The payment of Rs.3,48,340/- is an allowable expenditure u/s 37 as it is incurred wholly and exclusively for the purpose of business. The addition of Rs.3,48,340/- is ultra vires the provisions of Section 37 and needs to be deleted. If the addition is not deleted it will lead to irreparable loss to the appellant assessee because of fault of the auditor.*
5. *The assessee craves leave to amend, alter or modify of the above grounds of appeal.*

3. We have heard both the sides and perused the material on record.

4. The solitary grievance of the Appellant in the present appeal is that while processing return of income under Section 143(1) of the Act disallowance of INR 3,48,340/- has been made. The Appellant filed rectification application under Section 154 of the Act which was rejected vide order dated 16/01/2020. Before the CIT(A) it was

contended on behalf of the Appellant that expenses of INR.3,48,340/- which have been disallowed were in the nature of regular advertisement expenses incurred by the Appellant. In support of the aforesaid contention the Appellant also filed Ledger Account of Advertisement Expenses, Invoices and Newspaper Clippings. The CIT(A) dismissed the appeal by placing reliance upon Tax Audit Report in Form 3CD wherein it was reported that the aforesaid amount was payment made to political parties. Hence the present appeal before the Tribunal.

5. During the appellate proceedings before the Tribunal the Learned Authorized Representative for the Appellant reiterated the submissions made before the CIT(A) and submitted that the tax auditor had committed an inadvertent error; the expenses under consideration were advertisement expenses incurred wholly and exclusively for the purpose of business of the Appellant; and the Appellant was entitled to claim deduction for the same under Section 37(1) Act. Per contra, the Learned Departmental Representative relied upon the order passed by the CIT(A) and submitted that in view of the tax audit report, there was no mistake apparent on record and therefore, no fault could be found in the order passed by the CIT(A).
6. On perusal of material placed on record, we are of the view that the finding returned by the CIT(A) are contrary to the material on record. While rejecting the Appeal the CIT(A) has recorded that the name of the Appellant was not mentioned on the advertisement clippings. We note that the Appellant was running to proprietorship under the name 'Sixems Enterprises' and 'Aerosea Tour & Travels'. The Appellant has placed on record the advertisement clippings, which were also filed before the CIT(A), which clearly reflect the name of proprietorship concern of the Appellant (i.e. Aerosea Travel & Tours). Further, the

Bank Statement of the aforesaid proprietorship concern, invoices as well as the ledger accounts, placed before us part of the paper-book, to show that the advertisement expenses were incurred during the relevant previous year. However, the same require verification. On the other hand there is nothing on record to show that any payment was made by the Appellant to any political party. Both, the Assessing Officer and the CIT(A) have merely relied upon the reporting made in the tax audit report. Accordingly, given the facts and circumstances of the present case and keeping in view the interest of justice, we deem it appropriate to remand the issue back to the file of Assessing Officer with the direction to adjudicate the same de-novo after taking into consideration the documentary evidences submitted by the Appellant and after granting the Appellant sufficient opportunity of being heard. Thus, the disallowance of INR 3,48,340/- is set aside. In terms of the aforesaid, Ground No.1 to 5 raised by the Appellant are allowed for statistical purposes.

7. In result, the appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 15.07.2024.

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA)**  
**Accountant Member**

**Sd/-**  
**(RAHUL CHAUDHARY)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 15.07.2024

*Poonam Mirashi*  
*Stenographer*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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