

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE “B” BENCH, BANGALORE**

**Before Shri Chandra Poojari, Accountant Member
and
Shri Prakash Chand Yadav, Judicial Member**

ITA No. 970/Bang/2024 (Assessment Year:2022-23)		
Propertyshare Online Platform Pvt. Ltd. E715, 7th Main Raheja Residency, Koramangala Bangalore 560034 PAN – AAICP4597N (Appellant)	vs.	DCIT, Circle 3(1)(1) BMTc Building Koramangala Bangalore 560034 (Respondent)

Assessee by:	Shri Chavali Narayan, CA
Revenue by:	Shri Subramanian S., JCIT-DR

Date of hearing:	24.07.2024
Date of pronouncement:	31.07.2024

ORDER

Per: Prakash Chand Yadav, J.M.

The present appeal filed by the assessee is arising from the DIN & order No. ITBA/NFAC/S/250/2003-24/1063571987(1) of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 28.03.2024 passed under Section 250 of the Income Tax Act, 1961 (the Act) in respect of Assessment Year (AY) 2021-22.

2. The facts leading to the filing of the present appeal are that the assessee, is a private limited company, filed its return of income on 02.03.2022 declaring Nil income. The case of the assessee was selected for complete scrutiny. During the course of assessment proceedings, the Assessing Officer (AO) has observed that the assessee has made payment of an amount of Rs. 20 lakhs to one Mr. Syed Zayd Ahmed on account of commission. The AO

observed that the party to whom the commission payment was made has not filed his return of income. Accordingly, the AO issued notice u/s. 133(6) of the Act to the payee. However, no one appeared from the side of the payee and hence the AO made an addition of Rs. 20 lakhs in the hands of the assessee.

3. Aggrieved with the order of the AO the assessee filed appeal before the Id. CIT(A) and contended that the assessee had duly deducted TDS on the amounts paid to the payee, namely, Mr. Syed Zayd Ahmed. Assessee also contended that the assessee has deposited TDS in the respective PAN of the payee and hence no adverse inference could be drawn against the assessee for the reason that the payee could appear before the AO in response to the summons u/s. 133(6) of the Act. However, the Id. CIT(A) could not find force in the argument of the assessee and confirmed the order of the AO.

4. Aggrieved with the order of the Id. CIT(A) the assessee has come up in appeal before us and has raised two grounds, which grounds are further divided into sub-grounds.

5. At the outset the Id. Counsel of the assessee has reiterated the submissions made before the authorities below and contended that the assessee is engaged in the business of real estate and the impugned commission has been paid towards brokerage services obtained from the payee.

6. The learned D.R. relied upon the orders of the authorities below and vehemently argued that the notices issued by the AO during the course of assessment proceedings remained un-complied with and hence the orders of the AO and CIT(A) is tenable in law.

7. After considering the rival submissions, we are of the view that the matter would be restored to the file of the AO to verify the PAN details of the payee and also to look into the TDS return of the assessee company. Further,

we also direct the assessee to file confirmation from the payee and also to cooperate in the remand proceedings. Therefore, the matter is restored to the file of the AO for examining afresh.

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

Order pronounced in the open Court on 31st July, 2024.

Sd/-
(Chandra Poojari)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bengaluru, Dated: 31st July, 2024
n.p.

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT, concerned*
4. *The DR, ITAT, Bangalore*
5. *Guard File*

By Order

//True Copy//

Assistant Registrar
ITAT, Bangalore