

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

**Before Shri Chandra Poojari, Accountant Member
and
Shri Keshav Dubey, Judicial Member**

ITA No. 630/Bang/2024 (Assessment Year: 2013-14)		
Madhuri Bhattacharya No. 363, 11th Cross 4th Main Road, 2nd Block R.T. Nagar, Bangalore 560032 PAN – AHEPB0337N	vs.	ACIT, Circle 2(3)(1) BMTc Building Koramangala Bangalore 560095
(Appellant)		(Respondent)
Assessee by:	Shri Deepak Chopra, CA	
Revenue by:	Shri V. Parithivel, JCIT-DR	
Date of hearing:	13.05.2024	
Date of pronouncement:	31.07.2024	

ORDER

Per: Keshav Dubey, J.M.

This appeal at the instance of the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 27.02.2024 vide DIN & order No. ITBA/NFAC/S/250/2003-24/1061593922(1) passed under Section 250 of the Income Tax Act, 1961 (the Act) in respect of Assessment Year (AY) 2013-14.

2. The assessee has raised the following grounds of appeal: -

- “1. The orders of lower authorities are bad in law and liable to be quashed for:*
- a) non-consideration of material on record and submissions of the appellant*
 - b) want of application of principles of natural justice.*

Without prejudice:

- 2. The learned assessing officer has erred in making an addition of Rs. 1,93,00,000 as unexplained investment and 36,00,000 as expenditure not related to the profession without issuing a show cause notice as mandated*

by the CBDT vide INSTRUCTION NO.20/2015 [F.NO.225/269/2015-ITA-III, DATED 29-12-2015. The learned CIT(A) has erred by not quashing the additions made to the returned income. The additions made being contrary to the CBDT instructions and violative of principles of natural justice are required to be deleted in toto.

- 3.1 *The learned assessing officer has erred in taxing a sum of Rs.1,93,00,000/- as unexplained investments in the hands of the appellant. The learned CIT(A) has erred in confirming the same. On the facts of the appellant's case the appellant has borrowed the loans in the earlier years and none of which is utilised for investment during the year and creditor has also confirmed the amount in writing. There being no unexplained investments the addition made by the learned assessing officer is erroneous and liable to be deleted.*
- 3.2 *The learned assessing officer has erred in disallowing business expenses to the tune of Rs 36,00,000/- that too without any basis. The learned CIT(A) has erred in not deleting the disallowance. On the facts of the appellant's case and as per applicable legal provisions, the expenditures having been incurred for the purposes of appellant's profession have to be allowed as such. The disallowance being erroneous has to be deleted.*
- 4 *The Appellant denies the liability to pay interest under section 234B and section 234C of the Act. The interests having been levied erroneously have to be deleted.*
- 5 *In the light of above and other grounds to be adduced at the time of hearing, the appellant prays that the impugned assessment order be quashed or at least:*
 - a) *Additions made be deleted.*
 - b) *Disallowance made to be deleted and*
 - c) *interests levied be deleted.”*

3. The brief facts of the case are that the assessee filed her return of income electronically ON 27/10/2013 for AY 2013-14 declaring total income of Rs.28,76,940/- Thereafter the case was selected for scrutiny under CASS and notices u/s. 143(2) as well as u/s. 142(1) of the Act were issued to the assessee. During the course of assessment proceedings the Assessing Officer (AO), in the absence of the details like date & mode of payment in the confirmations from Sri Ashok Kumar Kheny as well as in the absence of any entry in the Bank A/c towards the receipt of the said Amount from Sri Askok Kumar Kheny amounting to Rs.1,93,00,000/- treated the same as unexplained investments and the same has been brought to tax. Further, the ld. AO, in the absence of the details and proof of expenditure to the extent of Rs.36,00,000/-

has disallowed the said expenditure and treated the same as not incurred in connection with her profession.

4. Aggrieved by the assessment completed u/s. 143(3) of the Act dated 23.03.2016 the assessee preferred an appeal before the CIT(A). The Id. CIT(A) observed that in spite of 11 nos. of notices issued on the email address, the assessee failed to furnish any details as called for. Further, the Id. CIT(A) observed that more than 7 years and 10 months have been passed from the date of filing of the appeal and accordingly is of the view that that the assessee is not interested in submitting any material in favour of her grounds of appeal and accordingly dismissed the appeal in the absence of any details/compliance made by the assessee.

5. Aggrieved by the order of the Id. CIT(A) the assessee has filed the present appeal before the Tribunal. The assessee has also filed a paper book comprising 63 pages enclosing therein copies of: -

1. Copy of written submissions dated 23rd May, 2017 along with Financial statement of AKK Entertainment Pvt. Ltd.
2. Copy of written submissions dated 14th June, 2017 filed before the Hon'ble CIT(A) on 14th June, 2017 along with statement of affairs for AY 2013-14 and Bank statement for AY 2013-14
3. Notice of appeal hearing dated 26/02/2024
4. Screenshot of E-Filing portal
5. Copy of Grievances application dated 29/02/2024

Before us, at the outset the Id. AR of the Assessee drew our attention to the Form No. 35 filed before the First Appellate Authority & submitted that the Authorised Representative has given his own email id & on the Form itself the Assessee has specifically mentioned not to sent Notices/communication on the Email. Further the Id. Counsel of the assessee vehemently submitted that the order passed by the Id. CIT(A) without providing opportunity of being heard is gross violation of the principles of natural justice. Further the learned A.R. of

the assessee drew our attention to page 56 of the paper book wherein notice u/s. 250 of the Act dated 26.02.2024 was issued and served upon the assessee in which the CIT(A) has directed to file written submissions on or before 01.03.2024, which is completely ignored by the Id. CIT(A) in his order. Further, he submitted that the Id. CIT(A) mentioned in his order that notice dated 13.02.2024 as final opportunity which is factually incorrect and misleading. Lastly, the learned A.R. submitted that when the notice u/s. 250 of the Act dated 26.02.2024 was served asking the assessee to furnish details on or before 01.03.2024, then the order dated 27.02.2024 passed u/s. 250 of the Act is liable to be quashed.

6. The learned D.R., on the other hand, supported the orders of the authorities below and submitted that the assessee is non-cooperative right from the assessment till the appellate proceedings & therefore there is no infirmity in the proceedings being decided exparte by the Id. CIT(A).

7. We have heard the rival contentions and perused the material on record. A perusal of the facts of the case shows that the assessee could not represent her case before the Id. CIT(A) properly as a result of which the Id. CIT(A) has dismissed the appeal of the assessee on account of non-prosecution. On perusal of the order of the Id. CIT(A) it is found that the Id. CIT(A) has also not adjudicated the issue on merits. During the course of hearing the learned A.R. requested that the assessee may be provided one more opportunity to represent her case before the Id. CIT(A). In view of the above and considering the prayer of the learned A.R. of the assessee the issue involved in the present appeal is restored to the file of the Id. CIT(A) for fresh adjudication after granting adequate opportunity of being heard to the assessee. The assessee shall produce all the necessary documents/evidences in support of her case and shall not seek unnecessary adjournments. In case of further default the assessee shall not be entitled to any leniency.

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

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

Sd/-
(Chandra Poojari)
Accountant Member

Sd/-
(Keshav Dubey)
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