

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

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No.117/Ahd/2024
Assessment Year: 2017-18**

Kevalvision Buildcon Pvt. Ltd., Ashraya, 9, GST Compound, Near Khodiyar Temple, New Ranip, Ahmedabad – 382 470 [PAN – AAECK 3705 H]	Vs.	The Deputy Commissioner of Income Tax, Circle – 2(1)(2), Ahmedabad.
(Appellant)		(Respondent)
Assessee by	Shri Sunil Talati, AR	
Revenue by	Shri Ashok Kumar Suthar, Sr. DR	
Date of Hearing	29.05.2024	
Date of Pronouncement	31.07.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal is filed by the Assessee against order dated 22.11.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

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

- “1. On the facts and circumstances of the case and in law, the Ld. CIT(A) was not justified in confirming the additions made by the Ld. A.O. and passed an impugned order without appreciating the facts and details available on record. Hence the order passed by Ld. CIT(A) being unjustifiable and unlawful and thus same be quashed in the interest of justice. The same be held now.*
- 2. The Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs.1,85,00,000/- u/s 68 of the Act on account of cash deposited in your appellant's bank account. The cash was deposited from fully*

explained sources. Hence the order passed making addition of Rs.1,85,00,000/- u/s. 68 be deleted in the interest of justice.

- 3. The Ld. CIT(A) has erred in disallowing Rs.16,11,351/- u/s 40(a)(ia) on account of non-deduction of TDS on payments made on which TDS was liable to be deducted and deposited. The said disallowance confirmed by Ld. CIT(A) is completely incorrect and unlawful and thus the same be deleted.*
- 4. The Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs.19,39,465/- being 10% of the claimed brokerage/commission of Rs.17,97,515/- plus labour of Rs.1,75,97,142/-. It is submitted that being a private limited company, the accounts of the appellant are subject to Statutory Audit under the Companies Act, 2013 as well as Tax Audit under Section 44AB of the Income Tax Act and therefore it is prayed that ad-hoc addition confirmed by Ld. CIT(A) of Rs.19,39,465/- kindly be deleted.*
- 5. The appellant was prevented by reasonable and sufficient cause because of which no details could be filed before the Ld. CIT(A). Your appellant requests that the matter be set aside to the file of the Ld. CIT(A) so that the necessary details can be filed.*
- 6. The order passed by the learned CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.”*

3. The original return of income was filed by the assessee on 03.02.2018 declaring total income at Rs.1,51,62,770/-. The assessee is engaged in the business of property development. The case was selected for scrutiny and notice under Section 143(2) of the Income Tax Act, 1961 was sent on 18.09.2018. Thereafter, notice under Section 142(1) of the Act along with detailed questionnaire was sent on 12.01.2019 through e-proceedings facility. The Assessing Officer observed that the assessee has not furnished any details called for in respect of seven notices and, therefore, proceeded on the basis of Section 144 of the Act. Since the assessee has not filed any details, the Assessing Officer made addition of Rs.1,85,00,000/- as unexplained cash credit and addition of Rs.16,11,351/- under Section 40(a)(ia) of the Act and addition of Rs.19,39,465/- towards expenses being disallowed at 10%.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). the CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that notices were not received by the assessee as the assessee is not aware about the technical e-proceedings and, therefore, the Assessing Officer as well as the CIT(A) passed ex-parte order. The Ld. AR requested that the additional evidences filed before the Tribunal as per the application under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1973 may be taken on record and the additional evidence be admitted.

6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that both the Assessing Officer as well as the CIT(A) has passed the ex-parte order and after going through the records, it appears that the assessee has not received the e-proceedings notices from both the authorities. Therefore, we are admitting the additional evidences filed by the assessee and remand back the matter to the file of the Assessing Officer for proper adjudication of the issues, after verifying the evidences and adjudicating the same as per the Income Tax Statute. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

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

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

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member
Ahmedabad, the 31st July, 2024
*PBN/**

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad