

IN THE INCOME TAX APPELLATE TRIBUNAL "H (SMC)"BENCH  
MUMBAI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SMT RENU JAUHRI, ACCOUNTANT MEMBER

I T A. No.2724/MUM/2024  
(A.Y.2008-09)

Karma Logistics Pvt Ltd Flat No. 7, Navratan CHS, Plot 445, 14 <sup>th</sup> Road, Bandra(West), Mumbai – 400050.	Vs.	ITO, Ward – 6(3)(3) Aayakar Bhavan, M.K. Road, Mumbai-400020.
PAN/GIR No. AACCK8259Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Shri Prakash Jhunjunwala.AR
Respondent by	Ms.Jancy Elizabeth Rani. Sr.DR

सुनवाई की तारीख/Date of Hearing	25.07.2024
घोषणा की तारीख/Date of Pronouncement	29.07.2024

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The assessee has filed the appeal against the order of the National Faceless Appeal Centre, Delhi / CIT(A), passed u/sec 143(3) r.w.s 254 and u/sec 250 of the Act. The assessee has raised the following grounds of appeal.

- 1.0 *On facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the addition u/s 69C of Rs.18,24,020/-, though the issue to examine the source of alleged unexplained expenditure was not set-aside by Hon'ble ITAT;*

- 2.0 *On facts and circumstances of the case and in law, Ld. CIT(A) erred confirming the addition u/s 69C of Rs.18,24,020/-, though the income, corresponding to disputed expenses, has already been brought to tax @ 8% of gross receipts and impugned addition had resulted into a case of double taxation;*
- 3.0 *The Ld. CIT(A), before confirming the addition u/s 69C of Rs.18,24,020/-, ought to have considered the understated vital facts, being; a) The incurred expenses had been sourced out of accounted and disclosed funds, considered for taxation; b) The corresponding income utilised to incur the disputed expenses has already been brought to tax in the assessment order; c) There does not exist an iota of evidence to establish that the alleged unexplained expenditure had been incurred out of appellant's unexplained funds; d) The book results had not been rejected u/s 145(3) of the Act*

2. The brief facts of the case are that, the assessee company is engaged in the business as transport contractors and the original assessment was completed u/s 143(3) of the Act dated 27.12.2010 with assessed total income of Rs. 82,75,050/- which includes addition made by the Assessing Officer (A.O) of Rs. 19,82,630/- In respect of service charges received from Seven Hills Care Pvt Ltd not offered for taxation and other disallowances u/sec40(a)(ia) of the Act. Aggrieved by the order passed u/sec143(3) of the act, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) on the disputed issue of service charges received from M/s Seven Hills

Health Care Ltd has estimated income @ 8% of the said amount and has partly allowed the assessee appeal. Aggrieved by the order of the CIT(A), the revenue and the assessee have filed cross appeal before the Honble Tribunal. Whereas the Hon'ble ITAT has granted relief by deleting the addition u/sec 40(a)(ai) of the Act and with respect to the service charges of Rs.19,82,630/- the Hon'ble Tribunal has directed the AO to verify the claim of expenditure out of uncharged receipts in the Profit & Loss account. In compliance to the directions, the Assessing Officer (A.O) has issued notice u/sec 142(1) of the Act calling for the supporting evidences and information to substantiate the claim. In compliance, the Ld.AR of the assessee appeared and filed the ledger account of the m/s Seven Hills Care Pvt Ltd in respect of the receipts, copy of bills, bank statements and explanations on the receipts and corresponding reimbursement of expenditure. The A.O in order to check the genuineness of transactions has issued notice u/s 133(6) of the Act on the parties and the said notices were returned un served by postal authorities. The assessee was issued show cause notice informing about the status of notice issued u/sec133(6) of the Act and additional information and clarifications were called for on the claim of expenditure against the receipts. Whereas the AO was not satisfied with the explanations and details and has dealt on the various facts of the expenditure and the alternative contentions of the

assessee but finally the A.O has treated the disputed amount as unexplained expenditure u/sec 69C of the act of 18,24,020/- after setoff of profit estimated @8% earlier and assessed the total income of Rs.22,70,054/- and passed the order u/sec 144 r.w.s 254 of the Act dated 29.03.2016.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the grounds of appeal, submissions of the assessee, findings of the AO but has sustained the addition made by the A.O and dismissed the assessee appeal. Aggrieved by the CIT(A) order the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in sustaining the addition made by the AO irrespective of the fact that the assessee has filed ledger accounts and bank statements to substantiate that the alleged receipts relate to reimbursement of expenditure and shall not partake the character of income in the hands of the assessee. Whereas the assessee has disclosed the net profit@ 3.6% (Appx) in the audited financial statements on the receipts/ service charges and similarly was accepted in the earlier years. The Ld. AR substantiated the submissions with the paper book and prayed for allowing the assessee appeal. Per Contra the Ld.DR relied on the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole matrix of the disputed issue envisaged by the Ld. AR that the CIT(A) has erred in sustaining the addition u/sec69C of the Act by the AO overlooking the submissions supported with the evidences of ledger account of the m/s Seven Hills Care Pvt Ltd in respect of the receipts, copy of bills, bank statements and explanations on the receipts and corresponding reimbursement of expenditure. The Ld.ARs contentions are that the Assessee is engaged in transport contractor works and the profit margin is around @3.6%.The Ld.AR demonstrated the bills and vouchers with respect to expenditure incurred placed at page 25 to 32 of the paper book which are in the nature of reimbursement, Further the bank statement at page 33 to 36 was referred to explain the cash withdrawals made on various dates towards incurring the expenditure. The Ld. AR alternative contentions are that if the addition is sustained, it should be restricted to the net profit percentage offered in F.Y.2007-08. We considering the facts and circumstances of the instant case are of the opinion that the assessee is in the business of transport contractor works and the margin of profit as mentioned by the Ld.AR is comparatively very much low. Whereas the assessee is in second round of litigation before the Hon'ble Tribunal on the disallowance of expenditure claimed against alleged receipts. Hence we considering the

facts and circumstances and to meet the ends of justice, restrict the profit percentage @12% of the addition sustained by the CIT(A) and partly allow the grounds of appeal of the assessee.

6. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 29.07.2024.

Sd/-

**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

Sd

**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 29/07/2024

KRK

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Dy./Asstt. Registrar)ITAT,  
Mumbai