

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.1253/Bang/2024
Assessment Years : 2023-24

Vyoma Technologies Private Limited, 247, Rajini Gandha Apt, Vittal Mallya Road, UB City, Bangalore-560 001. PAN – AACCV 4949 A	Vs.	The Dy. Commissioner of Income Tax, Circle-7(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Girish Kumar S, Advocate
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Dept.

Date of hearing	:	29.07.2024
Date of Pronouncement	:	21.08.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the Addl.JCIT (A)-12, Mumbai dated 27/05/2024 vide DIN No. ITBA/APL/S/250/2024-25/1065155436(1) for the assessment year 2023-24.

2. The only issue raised by the assessee is that the Id. CIT(A) erred in confirming the addition of Rs. 14,13,154/- under the provisions of Explanation 1 to sec. 37(1) of the Act.

2.1 The AO during the assessment proceedings found that the assessee has incurred certain expenses, which are prohibited under the provisions of law. The details of such expenses are as under:

S. No.	Particulars	Amount (Rs)	Refer Page
1	Interest on delay in filing GST Return	Rs.14,00,771/-	18 to 39
2	Interest on Delay in Payment of Professional Tax	Rs.217/-	40
3	Interest on Delay in PT Payment	Rs.522/-	52
4	Interest on License Fee	Rs.3,000/-	59
5	Late Fees on Delay in Filing GST Return	Rs.8,644/-	63

2.2 In view of the above, the AO disallowed the same and added to the total income of the assessee. On appeal, the Id. CIT(A) confirmed the order of the AO.

3. Being aggrieved by the order of the Id. CIT-A, the assessee is in appeal before us.

4. The Id. AR before us submitted that the expenses in dispute have not been prohibited under the provisions of law. As such, the interest and the fee were levied on account of non-compliance of the different provisions under the different Act, which is compensatory in nature and, therefore, the same should be allowed as a deduction.

5. On the other hand, the learned DR before us supported the orders of the authorities below.

6. We have heard the rival contentions of both the parties and perused the materials available on record. In the present case, the

learned CIT-A disallowed the expenses as discussed aforesaid amounting to Rs. 14,13,154/- by invoking the explanation 1 to section 37(1) of the Act. As per the learned CIT-A, the impugned expenses were incurred by the assessee in violation of law and therefore the same was not allowed as deduction.

7. However, as regards the first category of expenses of Rs. 14,00,771/- and Rs. 8,644/- representing the interest and late fee on account of delay in filing GST return, we find that it was levied for non-compliance of the provisions of GST Act. As such, the assessee is required to comply the provisions of GST Act by filing the return within the stipulated time. Since the returns have not been filed within the stipulated time, the interest and fee were charged under the GST Act. As such the interest in dispute was not charged by the revenue for committing any offence which was prohibited under the provisions of GST Act. Thus, we are of the view that the interest and late fees paid by the assessee in the given facts and circumstances is compensatory in nature which is allowable as deduction under the provisions of section 37(1) of the Act. The Delhi Tribunal in the case of ITO vs. Virtue Financial Services (P) Ltd reported 33 taxmann.com 395 regarding the payment made on account of delay in submitting statutory requirement/returns held that the same are compensatory in nature and allowable as business expenditure under section 37 of the Act. the relevant finding of the Tribunal is extracted as under:

Held that that payments made by the assessee on account of delay in submitting certain statutory returns were compensatory in nature and not on account of fraction of any law. These were not penal in nature. Therefore, the Commissioner (Appeals) rightly deleted the addition.

7.1 Moving further, we note that the interest on delayed payment of Professional tax, PT, and licence fee for Rs. 217, Rs. 522 and Rs. 3000 respectively for which the assessee was under the statutory obligation to deposit/pay within the stipulated time but there was a delay and therefore the interest was charged under the relevant Act which is nothing but compensatory in nature and therefore the same cannot be hit by the explanation 1 to section 37(1) of the Act. Accordingly, we hold that such interest on account of delayed payments is eligible for deduction as business expenses under section 37(1) of the Act. Hence, the grounds of appeal of the assessee are allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in court virtually on 21st day of August, 2024

Sd/-

(BEENA PILLAI)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 21st August, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore