

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "C" Bench, Mumbai.

Before Shri Pavan Kumar Gadale (JM) & Shri Omkareshwar Chidara (AM)

I.T.A. No. 4724/Mum/2023 (A.Y. 2021-22)

ACIT, Circle-4(2)(1) Room No. 640 Aayakar Bhavan M.K. Road Mumbai-400 020.	Vs.	360 One Asset Management Ltd. IIFL Centre, Kamala City, Senapati Bapat Marg, Lower Parel Mumbai-400 013. PAN : AACCC12676K
(Appellant)		(Respondent)

Assessee by	Shri Pritesh Mehta
Department by	Shri H.M. Bhatt
Date of Hearing	09.07.2024
Date of Pronouncement	02.08.2024

ORDER

Per Omkareshwar Chidara (AM) :-

In the above captioned appeal, the Revenue challenged the decision of the learned Commissioner of Income Tax (Appeals) [the Ld. CIT(A) for short] deleting the addition made by leaned Assessing Officer (Ld. AO for short) with respect to commission payment of the appellant. In this case, the Ld. AO held that there is no proof of payment/brokerage by appellant to M/s. Karvy Stock Broking Ltd. and the claim of expenditure was disallowed and added to the income while finalizing the assessment.

2. Aggrieved by the disallowance of claim of expenditure, the assessee company filed an appeal before the Ld. CIT(A). The Ld. CIT(A) deleted the addition made by Ld. AO stating that the appellant company has given copy of bank account evidencing payment of commission to M/s. Karvy Broking Ltd., filed a copy of distribution agreement as a basis for making the payment

and submitted proof of deduction and deposit of TDS on this expenditure. Based on these evidences filed before the Ld. CIT(A), the addition made by Ld. AO was deleted and appellant's appeal was allowed.

3. Aggrieved by the deletion of addition by the Ld. CIT(A) the Revenue instituted an appeal with the following grounds before ITAT. Before the ITAT, is Ld DR has argued that the recipient company M/s. Karvy Broking Ltd. did not acknowledge the receipt of commissioner, nor did respond to the query of Ld. AO by way of issuing a notice u/s. 133(6) and despite receiving such huge commission amount of Rs. 4.37 crores, the recipient company did not file the Return of Income. As there is no proof from recipient's side and there is no response coupled with non-filing of Return of Income, the Ld. DR has pleaded that the order of the Ld. CIT(A) be reversed and the order of Ld. AO be restored.

4. Per contra, the Ld. AR of the appellant company filed a paper book which contained the details of invoices of company depicting payment of commission to Karvy Stock Broking Ltd., ledger account M/s. Karvy Broking Ltd. in the books of appellant company, copy of bank statement evidencing payment of commission, copy of distribution agreement, copy of Portfolio Management Services Referral Agreement during the hearing and pleaded that the order of the Ld. CIT(A) may be confirmed.

5. Heard both sides. During the hearing, it was noticed that the appellant company entered Distribution Agreement with M/s. Karvy Stock Broking Ltd. in 2017 and a second addendum agreement was also entered with the same company in 2018. The Bench has asked Ld. AR of the assessee as how appellant company could enter into a distribution agreement with M/s. Karvy Stock Broking Ltd., in 2017/2018 because M/s. Karvy Stock Broking Ltd. was not existing at that time and from 22.7.2017, the name of company was changed to M/s. Karvy Fintench (I) Ltd. Moreover, the appellant company

could not prove the aspect of “Services rendered by M/s. Karvy Stock Broking Ltd. The Bench further asked certain queries relating to M/s. Karvy Stock Broking Ltd., as to why the recipient company did not file a Return of Income despite receiving such huge commission for which Ld. AR could not reply.

6. As the proof for rendering services by M/s. Karvy Stock Broking company was not filed by the appellant company and that company did not file the Return of Income admitting this income coupled with the fact that on the date of agreement, M/s. Karvy Broking company was not existing, full details were not forthcoming from the Orders of Ld. AO and the Ld. CIT(A), it is decided to remit the matter back to the file of Ld. AO to examine all the issues afresh and pass a speaking order.

7. The matter is remitted to the file of AO with the above directions. The order of the Ld. CIT(A) is reversed to the extent mentioned above.

8. The appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 2nd August, 2024.

Sd/-
(Pavan Kumar Gadale)
Judicial Member

Sd/-
(Omkareshwar Chidara)
Accountant Member

Mumbai : 02.08.2024

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//

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BY ORDER,
(Assistant Registrar)
ITAT, Mumbai