

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A" , HYDERABAD**

**BEFORE**

**SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER  
AND  
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

ITA No.517/Hyd/2024		
Assessment Year – 2017-18		
GACM Technologies Ltd. (Formerly known as Stampede Capital Limited) Hyderabad PAN : AAACB7421K	Vs.	Income Tax Officer Ward-3(4), Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri Rajesh Vaishnav, Ld.AR	
Revenue by:	Shri Srinath Sadanala, Ld.DR	
Date of hearing:	05.09.2024	
Date of pronouncement:	06.09.2024	

**ORDER**

**PER LALIET KUMAR, J.M.**

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 15.03.2024 for the AY 2017-18 on the following grounds :

2. The grounds raised by the assessee reads as under :

*“1. Based on the facts and circumstances of the case and in law, the Ld.CIT(A) :*

- 1.1. Erred in not providing an opportunity to explain the reasons for delay in filing of appeal.*
- 1.2. Ought to have appreciated the fact that appellant was prevented by the sufficient cause in filing the appeal.*

*2. Based on the facts and circumstances of the case and in law, the Ld.AO/CIT(A) :*

- 2.1. Erred in disallowing the 50% of employee benefit expenditure without considering the facts of the case.*
- 2.2. Ought to have appreciated the fact that the employee expenditure was actually incurred by the appellant and complied with all statutory compliances applicable for the period under consideration*
- 2.3. Erred in disallowance of 50% of employee expenditure claimed by the appellant without rejecting the books of accounts.*
- 2.4. Erred in disallowing the 50% employee benefit expenditure without any basis or standard precedent or rational calculation, hence the same is not acceptable*

*3. Based on the facts and circumstances of the case and in law, the Ld.AO/CIT(A) :*

- 3.1. Erred in disallowing the 50% of other expenditure without considering the facts of the case.*
- 3.2. Ought to have appreciated the fact that the other was actually incurred and complied with all statutory compliances applicable by the appellant for the period under consideration.*
- 3.3. Erred in disallowance of 50% of other expenditure claimed by the appellant without rejecting the books of accounts.*
- 3.4. Erred in disallowing the 50% of employee benefit expenditure without any basis or standard precedent or rational calculation, hence the same is not acceptable.*

*4. Based on the facts and circumstances of the case and in law, the Ld.AO/CIT(A) :*

4.1. *Erred In disallowance of cost of operation expenditure claimed by the appellant u/s 14A without rejecting the books of accounts.*

4.2. *Erred in appreciating the fact that appellant has not incurred any expenditure for earning Exempt Income.*

4.3. *Failed to comply with the provisions of the Section 14A that the expenditure proved to be incurred in relation to earning of tax free income can only be disallowed and provisions cannot be extended to disallow even expenditure which is assumed to have been incurred for earning tax free income.*

4.4. *Failed to establish the nexus between the exempt income and expenditure incurred to earn Exempt Income.*

4.5. *Erred in complying with the provisions of the act where the amount of disallowance u/s 14A shall not exceed the actual amount of expenditure incurred in earning Exempt Income.*

5. *Based on the facts and circumstances of the case and in law, the Ld.AO/CIT(A) :*

5.1. *Erred in appreciating the fact that dividend earned is exempt income the hands of appellant.*

6. *The appellant may add, alter or modify any other point to the Grounds of appeal at any time before or at the time of hearing of the appeal.*

3. In the present case, at the outset, the Ld.AR submitted that there is a delay of 40 days in filing the appeal before the Ld.CIT(A) and the Ld.CIT(A) has not condoned the delay and dismissed the appeal *in-limine*, as it is filed beyond the period of limitation as provided by the Income tax Act, 1961 ("the Act"). For the above said purposes, the Ld.AR has drawn our attention to paragraph 6 of the order to the following effect and pleaded to remit the matter back to the file of the Ld.CIT(A):

*"6. On the facts and circumstances of the case and in view of the position of law applicable on the given facts, I am satisfied that the appeal has not been presented within the*

*period prescribed under section 249(2) of the Act i.e. thirty days from the date of service of the notice of demand relating to the assessment order. I am also satisfied that the appellant has not been able to show any "sufficient cause" for not presenting the appeal within the said prescribed period, within the meaning of section 249(3) of the Act, read with section 5 of The Limitation Act. The application seeking condonation of delay in presenting the appeal is hereby rejected. Accordingly, the appeal is not admitted for adjudication on merits."*

4. Per contra, the Ld.DR submitted that in the present case, the Assessing Officer has passed the order on 27.12.2019 and in the assessment proceedings, the assessee has not uploaded the books or accounts or ledger for verification of security transactions with supporting documents. Further, the additions were also made in the hands of the assessee u/s 14A of the Act. Feeling aggrieved, the assessee preferred appeal before the Ld.CIT(A) and the Ld.CIT(A) dismissed the appeal, as it was not preferred within time. The Ld.DR objected to remit the matter back to the Ld.CIT(A) as the assessee failed to file appeal in time, more particularly when the assessee happens to be a company having a huge income from the security business and others and is having huge income.

5. We have heard the rival contentions of both the parties and perused the material available on record. Undoubtedly, the assessee had filed appeal after a period of 40 days and the assessee in the appellate proceedings has neither given the reasons for filing the appeal belatedly nor filed any application for condonation of delay. The assessee is duty bound to file condonation application before the CIT(A) giving sufficient and plausible evidence for not

filing the appeal within period of time. Now in the present proceedings before us, the assessee company has expressed willingness to file the application for condonation of delay, explaining the reasons for not filing the appeal in time before the Ld.CIT(A). Therefore, we deem it appropriate to remit the matter back to the Ld.CIT(A) with a direction to decide the application for condonation if any filed by the assessee within 60 days of passing this order subject to payment of costs of Rs.50,000/- (Rupees Fifty Thousand only) in favour of Prime Minister National Relief Fund which shall be payable within two months from the date of receipt of this order or whichever is earlier. In case the assessee file application for condonation of delay and also deposits the amount in favour of Prime Minister National Relief Fund, the Ld.CIT(A) shall decide the application in accordance with law. In the light of the above, the appeal of the assessee is allowed for statistical purpose.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 6<sup>th</sup> September 2024.

Sd/-

**(G. MANJUNATHA)**  
**ACCOUNTANT MEMBER**

Sd/-

**(LALIET KUMAR)**  
**JUDICIAL MEMBER**

Hyderabad, dated 06.09.2024.  
*L.Rama/SPS*

Copy to:

S.No	Addresses
1	M/s GACM Technologies Ltd., (Formerly known as Stampede Capital Limited), Begumpet, Hyderabad
2	The Income Taxc Officer, Ward-3(4), Hyderabad
3	Pr.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*