

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F", MUMBAI

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**I.T.A No.1230/Mum/2024  
(Assessment Year 2018-19)**

<b>Mahinder Pal Singh</b> 601, Rustomjee Tower No.1 Behind Goregaon Telephone Exchange, Goregaon (W)-400 104 <b>PAN : AMEPS6884L</b>	<b>vs</b>	<b>Commissioner of Income-tax Appeal, Delhi / National Faceless Appeal Centre, Delhi</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : None  
Respondent by : Shri Ms. Rajeshwari Menon, SR DR  
Date of hearing : 19/09/2024  
Date of pronouncement : 20/09/2024

**ORDER**

**PER ANIKESH BANERJEE, J.M:**

Instant appeal of the assessee was filed against the order of the Learned National Faceless Appeal Centre (NFAC), Delhi [in short, 'Ld.CIT(A)] passed under section 250 of the Income-tax Act, 1961(in short, 'the Act'),for Assessment Year 2018-19, date of order 17/01/2024. The impugned order was emanated from the order of the National e-Assessment Centre, Delhi, (in short, "Id. AO") order passed

under section 143(3)r.w.s. 143(3A) & 143(3B) of the Act, date of order 15/02/2021.

2. The assessee has taken the following grounds:-

*“ 1. That the Ld. Commissioner of Income Tax (Appeal) erred in affirming the decision of Ld. AO for disallowing contract fees of Rs. 40,50,000/- paid to M/s Onscreen Broadcast and Entertainment Private Ltd without appreciating the fact that expenditure was incurred wholly and exclusively for the purpose of business.*

*2. That the Ld. Commissioner of Income Tax (Appeal) erred in affirming the decision of Ld. AO for disallowing commission of Rs. 17,26,345/- paid to M/s Onscreen Broadcast and Entertainment Private Ltd without appreciating the fact that expenditure was incurred wholly and exclusively for the purpose of business.*

*3. The appellant craves leave to add to, alter, to delete from or substantiate the above ground of appeal.”*

3. When the appeal was called for hearing, none was present on behalf of the assessee. No adjournment petition was filed. The assessee was allowed the date of hearing twice by the Bench, but none appeared. We find that the assessee was allowed a reasonable opportunity for hearing. We proceed to dispose of the matter *ex parte qua* for assessee after hearing, the Id.DR.

4. We heard the Id.DR, considered the documents available in the record and perused the orders of the revenue authorities. The additions were challenged related to disallowance of expenses related to the contract fees amount of Rs.40,50,000/- paid to M/s Onscreen Broadcast & Entertainment Pvt Ltd and the disallowance of commission amount to Rs.17,26,345/- paid to M/s On-screen Broadcast & Entertainment Pvt Ltd. The Id. DR invited our attention in impugned assessment order page 4. On perusal of impugned assessment order, we find that the same amount was debited and credited in the Profit & Loss Account & total

balances are equal in both the side of P & L A/c. The Id.DR invited our attention in impugned appeal order pages 2 & 3, which are reproduced as under: -

*“4.1 As per the Assessment order, the AO held that the assessee has debited contract fees of rs. 40,50,000/- and commission of Rs. 17,26,345/- in his return of income, It is further held that on verification of the PS L account, it is noticed that the assessee has paid contract fees of Rs. 40,50,000/- and debited in his profit and loss account whereas other side, the assessee has shown as received lesioning fees of Rs. 40,50,000/-and credit in his P & L account. Further, the assessee has paid Rs 17,26,345/- as received commission and debited Rs. 17,26,345/- as commission fees. The AD concluded that the assessee has debited mount and credited the same amount and shows profit and gains from business at NIL. Therefore, the claim of contract fees of Rs. 40,50,000/- and commission of Rs. 17,26,345/- is disallowed and added to the income of the assessee.*

*4.2 During the course of appellate proceedings, the appellant has not made any submissions on this issue.*

*4.3.0 I have gone through the grounds of appeal and statement of facts, assessment order. It appears that after filing of appeal against the assessment order, the appellant is not serious in pursuing the appeal. In the appellate proceedings, burden of proof lies on the assessee to prove that facts and findings of the AO are incorrect. If the assessee fails to prove or rebut with cogent evidence against such facts and findings, no interference is required with assessment order. In this case, it appears that the appellant had no evidence or say or explanation against the order of the AO.*

*4.3.1 From the assessment order it is seen that in reply to show cause notice the appellant with regard to Rs. 40,50,000/- and Rs. 17,26,345/- held that the above amounts were paid to M/s. Onscreen broadcast and Entertainment P Ltd. for their services and the same amount is paid to the company excluding GST. However, through several opportunities were provided the appellant had not filed single document during the course of assessment proceedings. Payment of GST and filing of the GSTR is not the basis for deciding whether the expenditure is allowable or not. The appellant has to prove the genuineness of the claim by submitting the details and documents of contract fees and commission debited in the P & L account such as copy of agreements, bank details, details of TDS etc.*

4.3.2 *In these circumstances and in view of the foregoing facts, I am of the opinion that no interference is required in the assessment order. Hence, the addition is upheld and the ground No. 1 and 2 are dismissed.”*

5. We find that the assessee was unable to submit the relevant documents before the Id.CIT(A). The Id.CIT(A) passed a speaking order, but order was passed without considering the evidence from the end of the assessee. The assessee failed to submit all the relevant documents before the Id.CIT(A) after issuance of several notices. We find from the registry that the assessee did not appear before the Bench during the hearing date. The assessee is a habitual defaulter before the appellate authorities. We are of the view that the assessee should be imposed a cost in order to make him understand the importance of income tax proceedings. Accordingly, we impose the cost amount of Rs.5,000/- (Rupees five thousand only) upon the assessee which shall be paid to the credit of Income Tax Department within two months from the date of receipt of this order. Subject to the payment of above cost which shall be verified by the Id. CIT(A). We remand the matter in the file of the Id. CIT(A) for adjudication *de novo*. We are not expressing our view on the merit of the case which will impair the appeal of the assessee. Needless to say, the assessee should get a reasonable opportunity of hearing before the Id.CIT(A). On the other hand, the assessee is directed to be diligent and co-operative before the Id.CIT(A)inset aside appeal proceedings.

6. In the result, the appeal of the assessee bearing **ITA No.1230/Mum/2024** is allowed for statistical purposes.

Order pronounced in the open court on 20<sup>th</sup> day of September, 2024.

Sd/-

(OMKARESHWAR CHIDARA)  
ACCOUNTANT MEMBER  
Mumbai, दिनांक/Dated: 20/09/2024  
Pavanan

sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, Mumbai