

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI MANU KUMAR GIRI, HON'BLE JUDICIAL MEMBER
AND SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1642/Chny/2024**
निर्धारण वर्ष / Assessment Year: 2018-19

Photon Kathaas Production
Private Limited,
No.19, Avenue Road,
Nungambakkam, Chennai –
600 034.

Deputy Commissioner of
v. Income-tax,
Central Circle -3(3),
Chennai.

[PAN: AAFCP-2805-A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. Raghav Rajeev Menon, Advocate
प्रत्यर्थी की ओर से/Respondent by : Dr. Samuel Pitta, JCIT

सुनवाई की तारीख/Date of Hearing : 23.09.2024

घोषणा की तारीख/Date of Pronouncement : 25.09.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), Chennai -20, for the assessment year 2018-19, vide order dated 29.03.2024.

2. The assessee has raised the following grounds of appeal:

"1. The order of the Learned Commissioner of Income Tax (Appeals), Chennai u/s.250 of the Income Tax Act, 1961 is opposed to law, facts and circumstances of the case.

2. The Ld. CIT(Appeals) erred in confirming the disallowance of Rs.22,84,069/- made under section 69C of the Act.

3. The Learned CIT(Appeals) Ought to have appreciated the fact that the appellant had withdrawn the cash from its bank accounts for which the Bank statements were produced.

4. The Learned CIT(Appeals) ought to have appreciated the fact that the Learned CIT(Appeals) directed the appellant to submit cash book from 07.09.2017 to 25.01.2018 and the Appellant has submitted that.

5. The Learned CIT(Appeals) ought to have appreciated the fact that the entire cash was kept at the shooting spot therefore it was not kept in officer during the time of Survey.

6. For the aforesaid grounds and for other grounds to be raised at the time of hearing, the order of CIT(A) may be quashed and justice be rendered.”

3. The brief facts of the case are that, the assessee is a company engaged in the business of film production and filed its return of income for the assessment year 2018-19 on 30.03.2019, admitting Nil total income and with a current year business loss of Rs.9,55,920/-. A survey u/s. 133A of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) was conducted at the business premises on 15.02.2018. During the survey, it was found that the assessee had maintained its books of accounts in Tall package and the cash balance found as per the books of accounts as on 26.09.2017 was at Rs.27,00,832/-, however there was no physical cash found at the premises.

During the assessment proceedings, the Assessing Officer asked the assessee to explain the cash deficit of Rs.27,00,832/-. The assessee stated that cash had been withdrawn and given to production manager to the tune of Rs.27 lakhs for which a copy of bank statements was filed. However, the Assessing Officer was not convinced and added the cash deficit at Rs.27,00,832/- as unexplained expenditure u/s. 69C of the Act and passed the assessment order u/s. 143(3) of the Act on 17.06.2021. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A).

4. During the appellate proceedings, the assessee was asked to submit cash book from 07.09.2017 to 15.02.2018 and the assessee submitted the same. On perusal of the submissions made by the assessee, the Id.CIT(A) has reduced the amount of addition made u/s. 69C of the Act to Rs.22,84,069/- as the difference between the total amounts withdrawn as per cash book from 07.09.2017 to 15.02.2018 of Rs.68,92,500/- and expenditure made at Rs.91,76,569/- by holding as under:

"7.8 It is noticed from cash book for the period above that nature of business appellant is such that entire cash receipts are through banking channel which are withdrawn from bank in order to incur expenditure towards film production which is

usually done at shooting spot. It is noticed that expenditure of appellant basically constitutes battas paid to makeup men, gym boys, costume assistants, Expenditure towards photo, food material, art material, conveyance etc. It is noticed that there is excess expenditure of Rs.22,84,069/- (Rs.91,76,569 - Rs.68,92,500) aver explainable sources as per cash book for the period under consideration. The appellant though filed cash book which shows excess expenditure aver cash balance as on 25-01-2018, has not offered any explanation for sources of excess expenditure aver cash of Rs.22,84,069/- AS mentioned above, Source for such expenditure is not coming forth from cash book filed by appellant. Thus, it is to be treated that source for expenditure Rs.22,84,069/- remains unexplained in the hands of appellant.

7.9 *Coming to provisions of section 69C, Section 69C can be invoked in cases where assessee is unable to explain sources for expenditure incurred. The Appellant as per its own admission has incurred expenditure of Rs.22,84,069/- in excess of cash available. No other source for incurring of such expenditure has been pointed by appellant. Hence, I am of considered opinion that amount of Rs.22,84,069/- is taxable as unexplained expenditure in the hands of appellant for the year. However, it is noticed that the AO has made addition of Rs.27,00,832/- u/s 69C of IT Act. The Assessing Officer is directed to delete excess addition made to the extent of Rs.4,16,763/- for the Year. Consequently, Grounds of appeal of appellant are Partly Allowed."*

Aggrieved by the order of the Id.CIT(A), the assessee is in appeal before us.

5. The Id.AR stated that the Id.CIT(A) has not considered the opening balance held as on 07.09.2017, since the assessee has submitted the cash book from 07.09.2017 that the amount withdrawn from bank accounts from that day as asked by the Id.CIT(A) during the appellate proceedings, without including

the cash balance held on 07.09.2017, which was Rs.25,67,331/-. Before us, the Id.AR furnished the cash book for the entire financial year i.e., from 01.04.2017 to 31.03.2018 and shown the cash balance as on 07.09.2017 was at Rs.25,67,331/- and prayed for setting aside the order of the Id.CIT(A) by deleting the addition made u/s. 69C of the Act.

6. Per contra, the Id.DR relied on the orders of the Assessing Officer and that of Id.CIT(A).

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The assessee is a company into the business of film production and expenditure related to production in the locations for making films. The assessee spends expenditure in cash. According to the Id.AR, during the survey proceedings u/s. 133A of the Act conducted on 15.02.2018 at the business premises of the assessee, a cash balance held in the books at Rs.27,00,832/- was not found physically. Since, the same had been given to the production manager for making the payments at the locations. The Id.CIT(A) also concurs with the assessee that the production houses does have expenditure spent at

shooting spot is done in cash. In the present case, the assessee was asked to submit the cash book from 07.09.2017 to 15.02.2018 and according to the Id.AR the cash book had been provided only from 07.09.2017 from the entries of cash withdrawn without including the cash balance as on that date. Therefore, there was a deficit in cash balance, compare to the expenditure shown up to the date of 15.02.2018 which consists of transactions up to 25.01.2018. Hence, there was an excess expenditure compare to the cash available for expenditure. Before us, the Id.AR has submitted that the cash book for the entire financial year showing withdrawals and expenditure for the whole year, having the opening cash balance of Rs.25,67,331/- as on 07.09.2017. Accordingly, the assessee had cash on hand to spend expenditure which has been disallowed as unexplained u/s. 69C of the Act as on 07.09.2017. Therefore, we set aside the order of the Id.CIT(A) and direct the Assessing Officer to examine the cash book of the assessee for the whole year to satisfy the cash balance held as on 07.09.2017 and delete the addition made u/s. 69C of the Act. Thus, we allow the appeal of the assessee.

8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 25th September, 2024 at Chennai.

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 25th September, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT- Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF