

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G", NEW DELHI**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI SUDHIR PAREEK, JUDICIALMEMBER**

**ITA No. 2528/DEL/2023  
(Assessment Year: 2021-22)**

Sanmarg Project Pvt. Ltd.,  
S-524, Neelakanth House 302,  
3<sup>rd</sup> floor, School Block, Shakarpur,  
New Delhi – 110 092

vs.

ACIT, Circle-22(2),  
New Delhi

**(PAN: AALCS0663D)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Pankaj Sharma, CA  
REVENUE BY : Shir Vivek K. Upadhyay, Sr. DR.

Date of Hearing : 29.08.2024  
Date of Order : 16.10.2024

**ORDER**

**PER S. RIFAUR RAHMAN, AM :**

1. This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. CIT (A)'] dated 12.07.2023 for the Assessment Year 2021-22.
2. Brief facts of the case are, assessee filed its return of income on 30.12.2021 and the same was processed under section 143 (1) of the Income-tax Act, 1961 (for short 'the Act') and in the intimation order passed u/s 143(1)(a), an amount of Rs.1,07,04,630/- was added back which includes an amount of Rs.3,82,508/- which is the dispute raised by the assessee before us. The assessee raised a ground before ld. CIT (A) and submitted that

the amount disallowed by the Assessing Officer which was already disallowed by the assessee itself and which is a part of the addition declared by the assessee of Rs.42,54,512/- and submitted the details of disallowance made by the assessee. It was also submitted that before making such disallowance, assessee should have been given an opportunity of being heard which was against the principles of natural justice. It was submitted that the assessee has disallowed an amount of Rs.4,66,800/- as shown on account of interest to MSME OF Rs.3,82,508/- and Rs.84,292/- on account of prior period expenditure. However, after considering the submissions of the assessee, ld. CIT (A) observed that the said amount of Rs.3,82,508/- was included in the total disallowance of Rs.42,54,512/- made u/s 37 of the Act. On perusal of Item No.7 of Part A to other information shown in the return of income, as per which the amount declared in Column A of Rs.4,66,800/- towards contingent liability. Therefore, he rejected the submission of the assessee that the amount of Rs.3,82,508/- is added back with the observation that the assessee disallowed the same clearly mentioning it as contingent liability.

3. Aggrieved with the above order, assessee is in appeal before us raising following grounds of appeal:-

*“01. That the ld. CIT(A) has erred in disallowing an amount of Rs.3,82,508/- on account of interest to micro small and medium enterprises development act, 2006 without considering the fact that it has already been added back in the computation of income of the assessee and taxes on that already been paid.*

*02. That the order of the CIT(A) is totally bad in the eyes of law and is against natural justice.*

*03. That the Ld. CIT(A) failed to understand that disallowance of Rs. 3,82,508 has already been made in the return of income submitted by the assessee.*

*04 That amount of Rs. 4,66,800/- has already been disallowed which consists Rs. 3,82,508 on account of MSME interest and Rs. 84,292/- on account of prior period expenditure. Hence, adding again of Rs. 3,82,508 will amount to be double taxation.*

*05. That the appellant craves to alter, leave or amend any grounds of appeal either before or at the time of hearing of appeal.*

4. At the time of hearing, ld. AR for the assessee brought to our notice page 9 of the paper book and submitted that the amount is disallowed by the assessee at Rs.4,66,800/- includes the amount of Rs.3,83,508/-. Further, he brought to our notice page 13 of the paper book which is the computation of income wherein he brought to our notice amount disallowed by the assessee of Rs.42,54,512/- and the relevant break up of the same which includes MSME interest disallowance of Rs.3,82,508/-. Further, he brought to our notice page 79 of the paper book which is the schedule of return of income wherein it is declared under Column (i) that it is relating to liability of a contingent nature. He also brought to our notice page 87 of the paper book wherein assessee has disallowed total amount of Rs.42,54,512/- u/s 37 of the Act. He brought to our notice page 24 of the paper book which is the rectification order passed u/s 154 of the Act and in which the Assessing Officer has corrected an amount of Rs.23,77,197/- and retained the other disallowances made u/s 143(1) which includes Rs.3,82,508/- which is a disputed issue before us. He prayed that the assessee has no doubt disallowed the abovesaid amount and the same was clubbed in the wrong head, it does not mean that assessee has made a wrong claim. He prayed that this amounts to double disallowance.
5. On the other hand, ld. DR for the Revenue brought to our notice page 38 of the paper book which is again rectification order passed u/s 154 and relied on the findings of the ld. CIT (A).
6. Considered the rival submissions and material placed on record. We observed from the record that assessee has declared net profit as per profit & loss account of Rs.27,92,386/- and as per the computation sheet, the assessee has disallowed an amount of

Rs.42,54,512/- which includes disallowance of loss on sale of assets, interest on TDS, penalty and MSME interest of Rs.3,82,508/- and prior period expenditure of Rs.84,292/-. However, while filing the return of income, no doubt assessee has disallowed total amount of Rs.42,54,512/- and while declaring the break up in the return of income in Column 7 of Part-A which is the amount debited to the profit & loss account to the extent disallowable u/s 37 of the Act. While giving the break up, the assessee has wrongly mentioned disallowance of MSME interest and prior period expenses in Column-I i.e. amount of any liability of a contingent nature, it is an apparent mistake which was brought to the notice of Id. CIT (A). However, Id. CIT (A) rejected the same disbelieving the assessee that assessee has not disallowed the present amount. After considering the relevant facts on record, in our considered view, since there is no specific column for disallowance of MSME interest and prior period expenses in Part-A of return of income, the assessee has wrongly included the same in Column (i) which is meant for disallowance of contingent liability. Since the mistake is apparent on record we are inclined to allow the claim of the assessee. Otherwise it will amount to double disallowance. Accordingly, grounds raised by the assessee are allowed.

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

**Order pronounced in the open court on this 16<sup>th</sup> day of October, 2024.**

Sd/-  
**(SUDHIR PAREEK)**  
**JUDICIAL MEMBER**

sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

**Dated : 16.10.2024**  
**TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals), New Delhi.
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI