

आयकर अपीलीय अधिकरण  
कोलकाता 'एसएमसी' पीठ, कोलकाता में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'SMC' BENCH, KOLKATA

श्री संजय शर्मा, न्यायिक सदस्य  
एवं  
श्री संजय अवस्थी, लेखा सदस्य  
के समक्ष  
Before

SRI SONJOY SARMA, JUDICIAL MEMBER  
&  
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No.: 1442/KOL/2024  
Assessment Year: 2017-18

*M/s. Subhrashi Enclave Pvt. Ltd.....Appellant*  
*[PAN: AASCS 6378 Q]*

*Vs.*

*ITO, Ward-10(2), Kolkata.....Respondent*

**Appearances:**

**Assessee represented by:** *Manoj Kataruka, AR.*

**Department represented by:** *Prabir Gupta Choudhury, Addl. CIT.*

Date of concluding the hearing : September 5<sup>th</sup>, 2024

Date of pronouncing the order : November 12<sup>th</sup>, 2024

**ORDER**

**Per Sanjay Awasthi, Accountant Member:**

In this case, the return of income was filed on 26.10.2017 declaring total income of Rs. 33,560/-. The case was picked up for scrutiny and the Assessing Officer (hereinafter referred to as ld. 'AO') sought to verify the genuineness of expenses and some other items claimed in the profit & loss account. It has been recorded that the ld. AO made efforts to summon the principal officer of the company and also deputed his Inspector to verify the physical existence of this company. It seems that the Inspector could not locate the office of the appellant company and thereafter, it is further recorded that show cause regarding disallowance of expenses on account of salary and

bonus, rent and electricity and staff welfare expenses was issued but apparently not responded to by the appellant. Thereafter, the ld. AO proceeded to make additions under these three heads amounting to Rs. 32,04,700/- in the hands of the assessee.

1.1. Aggrieved with this action, the appellant approached the ld. CIT(A) where it is seen that in response to as many as four notices no response was submitted before the ld. First Appellate Authority. Needless to say, the appeal was dismissed and the action of the ld. AO was upheld.

1.2. Before us, the appellant has pointed out that the statement by the ld. AO recorded on page 3 (2<sup>nd</sup> para of the ld. AO's order) to the extent that no reply was received from the assessee was not correct as replies were submitted on 13.03.2019, 02.04.2019 and 20.11.2019 before the ld. AO and were uploaded on the relevant portal. The ld. A/R has taken pains to point out that vide their reply dated 13.03.2019 and 24.11.2019 complete details of salary and bonus paid during the entire financial year, rent, receipts for the premises occupied by the appellant company and also staff welfare expenses details were duly filed. In fact, it was pointed out that these responses were filed in physical form also and there are receipt stamps by the relevant Income Tax ward in evidence of the fact that such details were actually filed before the ld. AO. The ld. A/R also argued that it is a registered company and is functioning within the norms of the Companies Act and hence, it is not an entity where there would be no staff or business premises as has been alleged by the ld. AO. He also took us through the details of staff salary and presented the daily attendance register to strengthen the line of argument that it is by no stretch of imagination a ghost company. The ld. A/R also assailed the finding of ld. AO that no response was filed to the queries raised by him even when detailed responses were filed on several locations. The ld. A/R also stated that the appellant could not make a presentation before the ld. CIT(A) due to non-receipt of notices for some reason.

1.3. The ld. D/R relied on the order of the ld. AO.

2. We have carefully considered the rival arguments and also gone through the documents filed before us. It is clear that there is evidence of meticulous record keeping in terms of employees of the appellant company and it is felt that had the Id. AO cared to go through the documents filed before him, he would have been persuaded for a different view at least on this matter. The appellant had also filed rent receipts before the Id. AO in evidence of the fact that the appellant company had a physical presence even though for some reason the Inspector deputed from the Office could not locate the same. Regarding staff welfare expenses, it is seen that the appellant had merely supplied details that cash amounts have been paid for the same. Considering the entire conspectus of facts, it deserves to be held that the salary and bonus expenses along with rent and electricity expenses deserve to be allowed in full. However, while considering the lack of evidence for staff welfare expenses the amount of addition thereon (Rs. 22,700/-) cannot be accepted and on this account the action of Id. AO is upheld. With these remarks, the appellant gets relief on account of addition for salary & bonus and rent & electricity, while the addition on account of staff welfare is confirmed.

3. In the result, the appeal filed by the assessee is partly allowed.

**Order pronounced in the open Court on 12<sup>th</sup> November, 2024.**

Sd/-  
**[Sonjoy Sarma]**  
Judicial Member

Sd/-  
**[Sanjay Awasthi]**  
Accountant Member

Dated: 12.11.2024

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. M/s. Subhrashi Enclave Pvt. Ltd., 14-C, M. D. Road, 4<sup>th</sup> Floor, Kolkata, West Bengal, 700007.**
- 2. ITO, Ward-10(2), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*//True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata