

आयकर अपीलीय अधिकरण “डी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON’BLE SHRI MANU KUMAR GIRI, JM

1. आयकर अपील संख्या ITA No.1803/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

&

2. Stay Application No.47/Chny/2024
(In ITA No.1803/Chny/2024)
(निर्धारण वर्ष / Assessment Year: 2017-18)

M/s. Akshay Mercantile Pvt. Ltd. E-5, Moogambika Complex, 4, Lady Desika Road, Mylapore, Chennai-600 004.	बनाम / Vs.	DCIT Central Circle-II(1), Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAACA-6248-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Assessee by	:	Shri K. Ravi (Advocate)- Ld.AR
प्रत्यर्थीकी ओरसे/ Revenue by	:	Shri A. Sasikumar (CIT)-Ld. Sr. DR

सुनवाईकी तारीख/ Date of Hearing	:	14-11-2024
घोषणाकी तारीख / Date of Pronouncement	:	20-11-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1.1 Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 08-05-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 05-07-2019.

1.2 The grounds taken by the assessee are as under: -

1. The order u/s.250 of the Income Tax Act passed by the National Faceless Appeal Centre on 08.05.2024 is arbitrary, illegal, and contrary to the facts and circumstances of the case.
2. The NFAC erred in making the addition of Rs.56,40,201/- on account of debtors.
3. The hybrid system for accounting can be adopted if the same is being followed consistently.
4. The ICDS applies only to the computation of income and not to the method of maintenance of books on accounts. The provisions of the Income Tax Act override ICDS.
5. The Delhi High Court in the case of Chamber of Tax Consultants and Another vs Union of India & Ors. (W.P.(C) 5595/ 2017) have struck down Circular No.10 /2017 and held a few paragraphs of ICDS-IV to be ultra vires to the provisions of the Income Tax Act, 1961.
6. No addition can be made on the basis of estimation without rejecting the books of accounts. Hence, the disallowance under s. 14A r. w. Rule 8D is unjustified.
7. The NFAC erred in considering the entire investment while disallowing the addition of Rs.593/-. For the purpose of Rule 8D, only investments relating to exempt income should be considered for the average and not the entire investment.
8. The NFAC erred in making additions based upon the block assessment made on account of accrued interest on pronote advances and advances found in laptop respectively.

The Ld. AR has not pressed grounds relating to disallowance u/s 14A due to smallness of the addition.

1.3 The Ld. AR advanced arguments supporting the case of the assessee whereas Ld. CIT-DR has supported the findings given by lower authorities. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

2. Addition of interest on loans

2.1 The assessee did not admit interest income in respect of loans and advances of Rs.235 Lacs as shown in the Balance Sheet. The assessee submitted that it was engaged in film financing wherein interest is realized only at the time of release of the movies which mostly get delayed due to intricacies involved in the business and hence, the cash

system of accounting is most practicable. However, Ld. AO estimated interest of 24% and made addition of Rs.56.40 Lacs. The Ld. CIT(A) confirmed the same on the ground that the assessee was mandated to follow mercantile system of accounting. Aggrieved, the assessee is in further appeal before us.

2.2 This issue has been decided by us in assessee's appeal for AY 2004-05, ITA Nos.288/Chny/2013 & ors. as under: -

Our findings and Adjudication

4. From the facts, it emerges that the assessee is following a particular accounting policy to recognize interest on loans and advances. The addition made by Ld. AO proceeds on the assumption that interest had accrued on all the loans advanced by the assessee. However, there is no finding that all loans were interest bearing loans and the interest, in fact, had accrued on these loans. There is no quarrel that the assessee being resident corporate assessee is required to offer income on mercantile basis. However, there has to be accrual of income first. In the absence of any such concrete finding by lower authorities, the estimation of notional interest is not justified. Therefore, we delete the impugned addition as sustained by Ld. CIT(A) and allow the appeal of the assessee.

Taking the same view, we delete the impugned addition and allow the corresponding grounds as raised by the assessee.

3. Addition of interest on Pronotes and Advances as per Laptop

3.1 Based on block assessments order passed u/s 158BD r.w.s. 254 on 28-03-2014, Ld. AO estimated interest on pronotes for Rs.10.75 Lacs and interest on advances as found in laptop for Rs.11.50 Lacs. The Ld. CIT(A) has confirmed the same. Aggrieved, the assessee is in further appeal before us.

3.2 It emerges that the quantum in block assessment has undergone substantial change in second round of litigation due to appellate proceedings. The same would have material bearing on these computations. Both the sides converged on the point that this addition is consequential in nature and therefore, the same could be restored back

to the file of Ld. AO considering the outcome of second round of litigation. Accepting the same, this issue is restored back to the file of Ld. AO for fresh consideration on above lines. The corresponding grounds stand allowed for statistical purposes. No other ground has been urged in the appeal.

4. The appeal stands partly allowed. The connected stay application has been rendered infructuous and accordingly, dismissed.

Order pronounced on 20th November, 2024

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated :20-11-2024
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Chennai
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF