

IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES, SMC, JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं डा० मीठा लाल मीना, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & DR MITHA LAL MEENA, AM

आयकर अपील सं./ITA No. 970/JP/2024  
निर्धारण वर्ष /Assessment Year : 2017-18

M/s. Mangalam Vardhman Developers LLP G-1, Western Heights, S-21, Shyam Nagar Jaipur	बनाम Vs.	The ITO Ward 1(3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAXFM 3034 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से /Assessee by : Shri Anurag Goyal, CA  
राजस्व की ओर से /Revenue by: Shri Gautam Singh Choudhary, JCIT-DR

सुनवाई की तारीख /Date of Hearing : 03/10/2024  
उदघोषणा की तारीख /Date of Pronouncement: 29 /10/2024

आदेश /ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 27-06-2024, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2017-18 raising therein following grounds of appeal.

“1. The order of the learned Commissioner of Income Tax (Appeals) under section 250 of Income Tax Act, 1961 is bad in law and against the facts of the case.

2. Learned AO has erred in passing rectification order u/s 154 without considering the reply of the assessee filed on 16.03.2022. The learned CIT(A) has erred in passing order u/s 250 dated 27.06.2024 without

M/S. MANGALAM VARDHMAN DEVELOPERS LLP VS ITO, WARD 1(3), JAIPUR

considering the adjournment application of the assessee filed on 19.06.2024 seeking adjournment upto 05.07.2024 for filing of submissions. Both the actions of the income tax authorities are against all the principles of natural justice and the circulars of the CBDT, for which both the orders deserves to be quashed.

3. The learned AO has erred in disallowing Rs. 4,81,538/- on account of 'interest on TDS" claimed by the assessee in Profit and Loss account, in most arbitrary manner.

4. The learned AO has also erred in disallowing Rs 1,39,500 u/s 40(a)(ia) of Income tax Act out of Brokerage Expenses paid by the assessee, in most arbitrary manner.

5. The additions/disallowances made by the AO are not apparent from records and on highly debatable issues, therefore, not covered by provisions of Sec. 154.

6. The learned AO has erred in charging interest under various sections on the above tax liability.’’

2.1 As per the facts of the present case, the assessee is an LLP and deduction was claimed on the interest payment on TDS and also the assessee had not deducted TDS on brokerage in advertisement and marketing expenses. The scrutiny assessment was completed without any disallowance. Later, the AO issued a 154 Notice and after opportunity of being heard, had disallowed the interest on TDS payment by observing that the payment comes under fines and penalties and interest category which is not an allowable expenses.

2.2 The assessee being aggrieved by intimation passed by virtue of order under section 154 preferred appeal before the ld.CIT(A) but the appeal of the assessee was also dismissed

2.3 Now the assessee has preferred the present appeal before us on the grounds mentioned hereinabove

2.4 After having heard the counsels for both the parties, we noticed that the main arguments of the assessee is that since the year during the course of scrutiny had verified the genuineness and allowability of these expenses, therefore, invocation of section 154 is invalid as there is no mistake apparent from the record. It was also submitted that ld. CIT (A) had erred in passing the impugned order without considering the adjournment application of the assessee filed on 19th June 24 for seeking adjournment up to 5th of July 24 for filing the submissions but ld. CIT(A) without providing an opportunity of hearing had dismissed the appeal of the assessee

2.5 After having gone through the records, we noticed that assessee had filed an application for seeking adjournment but without considering the same ld. CIT(A) has decided the appeal of the assessee and dismissed the same. Be that as it may, we are of the view that the lis between the parties is to be adjudicated on merits and we feel that one more chance may be given to the assessee to contest his appeal on merits before ld. CIT(A). Therefore, considering the principles of natural justice, we restore the matter to the file of ld. CIT(A) for adjudicating the same afresh on merits, needless to say by providing fair opportunity of hearing to the assessee. At the same time, we also direct the assessee that he shall not seek

adjournments on unnecessary or frivolous grounds and remain cooperative during the course of proceedings and therefore the appeal of the assessee is allowed for statistical purposes.

2.6 Before parting, we may make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by AO independently in accordance with law.

3.0 In the result, the appeal of the assessee is allowed for statistical purposes, with no orders as to cost.

Order pronounced as on 29/10/2024, under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-  
( डा० मीठा लाल मीना )  
(Dr. Mitha Lal Meena)  
लेखा सदस्य / Accountant Member

Sd/-  
(संदीप गोसाईं)  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 29 /10/2024

\*Mishra

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- M/s. Mangalam Vardhman Developers LLP, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward -1(3), Jaipur
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File (ITA No. 970/JP/2024)

आदेशानुसार / By order,

Asstt. Registrar