

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.2708/Mum/2024
(Assessment Year :2016-17)**

Mrs. Priya Praphulla Chavan 401, 402, Laxmi Residency, B-Wing Shree Ekveera SRA CHS, V B Phadke Marg Gavandpada Mulund East Mumbai – 400 081	Vs.	Income Tax Officer, Ward-41(2)(4) Kautilya Bhavan Bandra Kurla Complex Bandra East Mumbai-400 051
PAN/GIR No.BOUPK3659G		
(Appellant)	..	(Respondent)

Assessee by	Ms. Vinita Nara (Junior of Shri. Dharan Gandhi, Adv)
Revenue by	Shri Krishna Kumar, Sr. DR.
Date of Hearing	26/11/2024
Date of Pronouncement	27/11/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 19/03/2024 passed by NFAC, Delhi for the quantum of assessment passed/s.143(3) for the A.Y.2016-17.

2. The assessee is aggrieved by addition of Rs.49,04,221/- made u/s.68 by the ld. AO. At the outset, it is seen that the ld. CIT(A) has passed *ex parte* order whereby he has confirmed the addition made by the ld. AO by treating the entire receipts as 'unexplained income' to be added u/s.68 for Rs.49,04,221/-.

3. Before us ld. Counsel submitted that assessee was running business of car hiring wherein, she took the car on hire basis and provided to various companies. Assessee had shown gross receipts of Rs.58,56,887/- and net profit of Rs.12,51,821/- from such business. The ld. AO to verify the contract receipts had issued notices to nine parties from whom assessee has received an amount of Rs.49,04,221/-. In most of the cases there was no compliance and in two cases where compliance was made, AO observed that TDS was not deducted. Accordingly, he treated the entire receipts from these parties as 'unexplained income' of Rs.49,04,221/-. Ld. Counsel further submitted that this amount of Rs.49,04,221/- is part of the gross receipts declared by the assessee on which assessee had already disclosed huge net profit and there was no reason to tax the entire contract receipt as income and that to be income from other sources. Thus, the addition made by the ld. AO is arbitrary.

4. On the other hand, ld. DR submitted that since ld. CIT(A) has passed *ex parte* order, therefore, the matter can be restored back to the file of the ld. CIT(A).

5. After considering the relevant facts brought on record, it is seen that, it is not in dispute that assessee had declared income

from car hiring business at Rs.12,51,821/- on total gross receipts from business was Rs.58,56,887/-. Once assessee had declared net profit of more than 22%, then how the part of the gross receipts which had been shown on the credit side can be added as income from undisclosed sources to be added u/s.68. Simply, because the parties have not deducted TDS or no compliance of notice u/s. 133(6) has been made by the parties, it does not lead to inference that receipts from them already shown as income, is undisclosed. When the amount of income has been shown as receipts in the profit and loss account then same cannot be taxed as unexplained credit u/s.68. The ld. AO at the best could have held that the net profit shown by the assessee from such receipts is low or could have applied higher net profit. But here in this case assessee itself had disclosed more than 22% of the net profit, therefore there cannot be any scope of enhancing the net profit. Accordingly, the addition made by the ld. AO is arbitrary and unsustainable on facts and thus is deleted.

6. In the result, appeal of the assessee is allowed.

Order pronounced on 27th November, 2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER
Mumbai; Dated 27/11/2024
KARUNA, sr.ps

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai