

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.15/Mum/2024  
(Assessment Year :2016-17)**

|  |     |   |
|--|-----|---|
| Stellant Capital Advisory Services Pvt. Ltd.,<br>C/o. Fortis Hospitals Ltd.,<br>Mulund Goregaon Link<br>Road, Bhandup West<br>Mumbai | Vs. | Assistant Commissioner<br>of Income Tax<br>Circle 5(3)(2)<br>Mumbai |
| <b>PAN/GIR No.AACCT2531J</b>   |     |   |
| <b>(Appellant)</b>   | ..  | <b>(Respondent)</b>   |

|                              |  |
|------------------------------|--|
| Assessee by                  | Shri Atul Suraiya &<br>Ms.Bhavika Jain |
| Revenue by                   | Shri Bhangapatil Pushkaraj<br>Ramesh   |
| <b>Date of Hearing</b>       | <b>05/11/2024</b>                      |
| <b>Date of Pronouncement</b> | <b>13/12/2024</b>                      |

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee against order dated 08/11/2023 passed by NFAC, Delhi for the quantum of assessment passed u/s.143(3) r.w.s. 147 for A.Y.2016-17.

2. In the grounds of appeal assessee has challenged the adhoc disallowance of Rs.26,93,067/- @ 10% on various expenses debited in the profit and loss account; and in additional ground

assessee has challenged the validity of reopening u/s.147 on various grounds including that additions have been made beyond the scope of reasons recorded.

3. The brief facts are that assessee has filed its return of income declaring total income of Rs.1,93,14,490/- on 29/09/2016. Later on, notice u/s.148 was issued on 28/03/2018 on the following reasons recorded:-

*“The return of income for the assessment year 2016-2017 was filed on 29.09.2016 declaring total income of Rs. 1,93,14,490/- Assessment u/s 143(1) was completed on 14.10.2016,*

*2 It has been seen from the records that the assessee has claimed Rs.5.35.119 in respect of interest for late payment of income-tax in the Profit & Loss A/c which is not allowable expenses as per Income-tax Act, 1961.*

*3. In the light of the discussion in the preceding paragraph, I have reason to believe that income chargeable to tax has escaped assessment for the assessment year 2016-2017 within the meaning of section 147 of the Income Tax Act, 1961. The income has escaped assessment due to failure on the part of the assessee to disclose fully and truly all material facts necessary for its assessment for the assessment year 2016-2017 and the Income which has escaped assessment amounts to or is likely to amount to Rs. 1,00,000/- or more.*

4. In response assessee company in the return of income filed in response to notice u/s.148, revised its income and reduced the wrongful claim of Rs.5,35,119/- in respect of interest for late payment of income tax debited to the profit and loss account. Thus, the income on which notice u/s.148 was issued was duly offered to tax in response to the notice u/s.148. Thereafter, the ld. AO proceeded to examine various details of expenses debited to the profit and loss account under following heads:-

| S. No. | Head               | Amount                   |
|--------|--------------------|--------------------------|
| 1.     | Salaries and Wages | Rs. 20,02,100/-          |
| 2.     | Professional Fees  | Rs. 6,13,519/-           |
| 3.     | Other expenses     | Rs 52,52,611/-           |
| 4.     | Interest Expenses  | Rs. 1,90,62,449/-        |
|        | <b>Total</b>       | <b>Rs. 2,69,30,679/-</b> |

5. According to ld. AO, since assessee did not reply to the notices nor it has provided any documentary evidences, he made disallowance @ 10% of the total expenses on adhoc basis which amounted to Rs.26,93,067/-

6. The ld. CIT(A) not only confirmed the validity of reopening u/s.148 but also the adhoc disallowance made by the ld. AO holding that ld. AO has noted that there were no supporting documents in respect of expenses.

7. Before us ld. Counsel besides raising various submissions on the validity of reopening u/s.148, on merits submitted that before the ld. AO, assessee had filed all the details and evidences which is evident from the reply filed before the ld. AO on various dates. These details of expenses were filed before the ld. AO vide letter dated 28/12/2018 which have been placed in the paper

book from pages 74-82 of the paper book. He submitted that assessee's accounts were duly audited and all the payments were made in cheque and even wherever TDS was applicable, same has been deducted. Ld. AO without even examining those details has proceeded to make adhoc disallowance which cannot be sustained.

8. On the other hand, ld. DR submitted that once the case has been reopened on the ground that assessee has made a wrong claim in respect of late payment of income tax, therefore, ld. AO was justified in reopening the case and making the adhoc disallowance on the various heads of expenses as assessee could not submit the proper documentary evidences in support of the claim.

9. After considering the relevant finding given in the impugned order as well as material placed on record, we find that in so far as disallowance of salaries and wages are concerned these have been paid to employees and assessee has mentioned the PAN and also deducted TDS. Once the payments have been made to employees through cheques after deducting TDS there can be no scope of any adhoc disallowance. Similarly with regard to interest expenses, they have been paid on unsecured loan taken from Fortis Hospital Limited and TDS has been deducted which is evident from the details given at page 52 of the paper book. With regard to professional expenses also, assessee has given the details of various persons to whom professional fees was given through banking channels, the details of which has been given in the paper book at page 49 of the paper book. Lastly, with regard

to other expenses, it is seen that the major amount are regard to license renewal fees which has been paid through cheque to SEBI and renewal fee to merchant chamber of commerce. Further, there is a loss of sale of securities and FAO of Rs.23,60,126/-. These details have also been furnished at page 51 wherein, the entire details of quantity purchased, purchase value, sale quantity and sale value has been given and gain and loss have been computed. For all other minor expenses also, all the payments have been paid through banking channels duly supported by vouchers and invoices. Once all these details were furnished before the ld. AO on 28/12/2018, then we do not find any reason how the ld. AO can say that assessee has not filed the details or documentary evidence. If all these payments have been made through banking channels and on major of the expenses, TDS has been deducted, then without pointing out any specific shortcoming or defect in such details that they are not for the purpose of business, no adhoc disallowance can be made by the AO. Accordingly addition of Rs.26,93,067/- is deleted. Since, we have deleted the addition on merits, the additional ground raised by the assessee challenging the validity of reopening and notice u/s.148 is treated as academic.

**10. In the result, appeal of the assessee is allowed.**

Order pronounced on 13<sup>th</sup> December, 2024.

**Sd/-**  
**(OMKARESHWAR CHIDARA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai; Dated 13/12/2024  
KARUNA, sr.ps

**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**