

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"C" BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No. 3311/MUM/2024**

**Assessment Year 2021-22**

**CISB Services Pvt. Ltd.,**

101, Khushwa Chambers, Makwana Road,  
Marol Andheri (East),  
Mumbai - 400059  
Maharashtra  
PAN: AACCC6334Q

..... Appellant

v/s

**Dy. Commissioner of Income Tax,**

Circle-1(2)(1)  
Room No.535, 5<sup>th</sup> Floor,  
Aayakar Bhavan Maharishi Karve Road,  
Mumbai – 400020

..... Respondent

Assessee by : Shri Sachin Sarawangi

Revenue by : Mr. Virabhadra S. Mahajan, Sr.DR

Date of Hearing – 03/10/2024

Date of Order – 17/12/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The assessee has filed the present appeal against the impugned order dated 27.05.2024, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*learned CIT(A)*], for the Assessment Year 2021-22.

2. In this appeal, the assessee has raised the following grounds: -

*"The following grounds of appeal are without prejudice to one another:-*

*1. On the facts in circumstances of the appellant's case and in law the order passed by the Ld. CIT(A) u/s. 250 of the Income Tax Act, 1961 (the Act) dated 27-05-2024 the same is erroneous and prejudicial to the interest of natural justice and fair play.*

*2. On the facts in circumstances of the appellant's case and in law the Ld. CIT(A) erred in holding that the consultancy fees of Rs.23,08,963/- should be disallowed without considering the fact that we have provided proof of all the expenses and hence the question of disallowing consultancy charges does not arise.*

*3. On the facts in circumstances of the appellant's case and in law the Ld. CIT(A) erred in holding that the power and fuel expenses of Rs. 41,93,050/- should be disallowed without considering the fact we have provided the proof of all the expenses and hence the question of disallowing power and fuel charges does not arise.*

*4. The appellant craves leave to add to, alter, amend and /or delete all or any of the foregoing grounds of appeal.*

*The appellant prays this Hon'ble Tribunal to quash the impugned order passed by the Ld. CIT(A) by invoking the provision of section 250 of the Income tax Act, 1961."*

3. The brief facts of the case are that the assessee is a private limited company and is engaged in providing facility services such as housekeeping services, caretaking and safety services of ATM. For the year under consideration, the assessee filed its return of income on 13.12.2021 declaring a total income of Rs.21,00,27,240/-, which comprises business income and income from other sources. The return filed by the assessee was selected for scrutiny and statutory notices under section 143(2) and section 142(1) of the Act were issued and served on the assessee. During the assessment proceedings, the AO noted that the assessee has claimed expenditure on account of consultancy and legal fees amounting to Rs.53,93,063/-. However, confirmation in respect of expenditure to the tune of Rs.30,84,100/- was only submitted by the assessee. Accordingly, these expenses were allowed to the

extent of Rs.30,84,100/- out of the total expenses amounting to Rs.53,93,063/- claimed by the assessee and the balance expenditure of Rs.23,08,963/- was disallowed under section 37 of the Act. Further, the AO observed that the assessee has claimed expenditure on account of power and fuel expenses amounting to Rs.41,93,050/-. However, bills of only Rs.1,99,092/- were furnished by the assessee. Accordingly, the balance expenditure of Rs.39,93,958/- was disallowed under section 37 of the Act.

4. The learned CIT(A), vide impugned order, *inter alia*, upheld the additions made on account of consultancy and legal charges as well as power and fuel expenses. In respect of consultancy and legal charges, the learned CIT(A) held that none of the persons to whom such charges were paid has filed their return of income on the ground that their income was below the taxable limit. Thus, doubting the genuineness of expenditure, the learned CIT(A) upheld the addition made by the AO. As regards fuel and power expenses, the learned CIT(A) held that the bills submitted by the assessee are in the name of individuals and not in the name of the assessee and no clarification for the variation in the consumers' name has been furnished by the assessee. Accordingly, the learned CIT(A) confirmed the addition on account of power and fuel expenses. Being aggrieved, the assessee is in appeal before us.

5. We have considered the submissions of both sides and perused the material available on record. In the present case, there is no dispute regarding the business profile of the assessee and it is an accepted fact that the assessee was engaged in providing manpower services. In the present case, in order to conduct its business, the assessee has claimed that it has incurred

expenditure in the nature of consultancy and legal services and also power and fuel expenses. It is evident from the record that out of the total expenditure of Rs.53,93,063/-, in respect of consultancy and legal fees, claimed by the assessee in its return of income, the assessee furnished the confirmation regarding the expenditure to an extent of Rs.30,84,100/-, during the assessment proceedings. Thus, the AO allowed the expenditure to that extent. As per the assessee, it provided the details of 87% of the expenditure incurred on consultancy and legal fees and only in respect of expenditure amounting to Rs.23,08,963/-, the assessee could not furnish any details during the assessment proceedings. It is evident from the record that with respect to payment amounting to Rs.23,08,963/-, the learned CIT(A) upheld the addition on the basis that none of the persons to whom consultancy charges were paid has filed their return of income. In order to substantiate its claim of payment for consultancy fees, the assessee has placed on record the documents pertaining to the individuals to whom such payment was made along with declaration and KYC. From the perusal of these documents, forming part of the paper book from pages 24-44, we find that the assessee has not only provided the declaration from these individuals but also furnished their PAN card and Aadhar card to prove their identity. In the present case, there is no dispute regarding the business profile of the assessee and it is evident from the record that out of the total income declared by the assessee in its return of income, the assessee has declared business income amounting to Rs.19,42,36,020/-. Thus, in the absence of any contradictory material being brought on record, the mere fact that these individuals did not file their return of income on the basis that their income was below the taxable limit, cannot

lead to the conclusion that the expenditure incurred by the assessee towards consultancy fees is not genuine. Accordingly, we direct the AO to delete the balance addition amounting to Rs.23,08,963/- made on account of consultancy and legal fees.

6. As regards the power and fuel expenses, it is evident from the record that out of the total expenditure of Rs.41,93,050/-, the assessee could only provide bills amounting to Rs.1,99,092/- and therefore, the balance expenditure amounting to Rs.39,93,958/- was disallowed by the AO under section 37 of the Act. The learned CIT(A) upheld the disallowance on the basis that in the copies of bills submitted by the assessee, the name of the assessee is not mentioned and no clarification in this regard has been submitted by the assessee. In the paper book filed by the assessee, in the present appeal before us, the assessee has furnished the documents pertaining to power and fuel expenses and also provided a copy of the bills. As per the assessee, the premises where it has provided the manpower services and incurred the expenditure in the nature of power and fuel were on rent and therefore, these bills/vouchers are in the name of the property owners instead of the assessee. In order to support the aforesaid submission, the assessee has submitted the copy of the rent agreements with regard to these premises, forming part of the paper book from pages 283 to 402. As per the assessee, out of the disallowance of Rs.39,93,958/-, it has been able to co-relate the documentation for the expenditure to the tune of Rs.10,42,713/- on power and fuel. Having considered these evidence, since the only basis for rejecting the same by the learned CIT(A) was that the bills were not in the name of the

assessee and they were in the name of some other individuals for which reasonable explanation has been furnished by the assessee, we are of the considered view that expenditure to an extent of Rs.10,42,713/- on account of power and fuel be deleted. We order accordingly.

7. As regards the balance expenditure amounting to Rs.31,05,327/-, as per the assessee, it has not been able to procure the necessary documentation and accordingly prayed that adjustment be made on the basis of net profit percentage instead on an *ad hoc* basis. As per the assessee, in the past, its net profit has been in the range of 3.7%. However, in the year under consideration, the assessee claimed that it earned a net profit of 4.37%. Accordingly, we deem it appropriate to direct the AO to make the addition on account of the balance expenditure amounting to Rs.31,05,327/- by applying the net profit rate earned by the assessee, after necessary verification of the documentary evidence in this regard. As a result, Ground No.2 is allowed, while Ground No.3 is partly allowed for statistical purposes.

8. In view of our aforesaid findings, Ground No.1 need no separate adjudication.

9. In the result, the appeal by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 17/12/2024

Sd/-  
**OM PRAKASH KANT**  
**ACCOUNTANT MEMBER**

Sd/-  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 17/12/2024**  
Prabhat

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai