

**IN THE INCOME-TAX APPELLATE TRIBUNAL “E” BENCH,
MUMBAI**

**BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 5043/MUM/2024
(A.Y. 2017-18)**

Konica Minolta Marketing Services India Pvt. Ltd. 6A 117, 6 th Floor, A Wing, We Work, Spectrum Tower, Mindspace, Malad West, Mumbai-400064	v/s. बनाम	ACIT, Circle 12(2)(1), Aayakar Bhavan, M K Marg, Mumbai-400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AABCE8425H		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Assessee by :	Ms. Bharati Malasur
Revenue by :	Shri Kiran Unavekar

Date of Hearing	24.12.2024
Date of Pronouncement	24.12.2024

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals), Mumbai/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 25.10.2023 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2017-18.

2. The assessee has raised following grounds of appeal:

“1. That the order passed u/s 144 of the Income tax is void ab initio and is an invalid order in the eyes of law and therefore should be quashed.

2. That the Ld. CIT (A) erred in confirming the adhoc disallowances made by Ld. AO by passing order u/s 144 of the Act by passing an *exparte* order without giving the appellant an adequate opportunity of being heard.

3. That an adequate opportunity must be granted to the appellant and the matter may kindly be sent back to the Ld. AO or Ld. CIT (A) as both the orders are *exparte* orders.

4. That the AO erred in law and on facts in assessing the income of the assessee by an order passed u/s 144 of the Act without giving the assessee an adequate opportunity of being heard and without contacting the assessee regarding non-compliance of notices, if any, during the assessment proceedings.

5. That the Ld. CIT (A) erred in confirming adhoc disallowance made by Ld. AO Rs. 38,43,108/- being 10% of the total employees benefit expenses incurred by the assessee company merely on the basis of assumptions and presumptions and without expressing any deficiency in the nature/genuineness of the expenditure incurred.

6. That the Ld. CIT (A) erred in confirming adhoc disallowance made by Ld. AO Rs. 60,746/- being 10 percent of the total finance cost incurred by the assessee company merely on the basis of assumptions and presumptions and without expressing any deficiency in the nature/genuineness of the expenditure incurred.

7. That the Ld. CIT (A) erred in confirming adhoc disallowance made by Ld. AO Rs. 2,98,309/- being 10 percent of the total depreciation and amortization expenses incurred by the assessee company merely on the basis of assumptions and presumptions and without expressing any deficiency in the nature/genuineness of the expenditure incurred.

8. That the Ld. CIT (A) erred in confirming adhoc disallowance made by Ld. AO Rs. 18,75,338/- being 10 percent of the other expenses incurred by the assessee company merely on the basis of assumptions and presumptions and without expressing any deficiency in the nature/genuineness of the expenditure incurred.

9. That the appellant craves the leave to add, substitute, modify, delete or amend all or any ground of appeal either before or at the time of hearing.”

3. Brief facts of the case are that the Ld. AO passed an *exparte* order u/s 144 of the Act wherein certain disallowances were made out of various heads of expenses on ad-hoc basis.

4. Aggrieved with the order of the Ld. AO, the assessee preferred an appeal before Ld. CIT(A). However, Ld. CIT(A) also passed an *exparte* order on 25.12.2019 confirming the additions made by Ld. AO in the absence of any submission/reply by the assessee despite several opportunities given by him.



5. Aggrieved with the order of the Ld. CIT(A), the assessee is in appeal before us. Before us, Ld. AR submitted that both Ld. AO as well as Ld. CIT(A) did not give the assessee an adequate opportunity of being heard, as such their orders deserve to be set aside.

6. Ld. DR has also agreed to the proposition that both orders are being *exparte*, the case may be remanded back for fresh adjudication as requested by Ld. AR.

7. We have considered the rival submissions and perused the material placed before us. In the interest of justice, we deem it appropriate to restore the case back to the file of Ld. AO for denovo assessment after giving adequate opportunity to the assessee. The assessee is also directed to make requisite compliance before Ld. AO to enable him to pass a fresh order on merits.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 24.12.2024.

Sd/-

SANDEEP SINGH KARHAIL

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date : 24.12..2024

अनिकेत सिंह राजपूत/ स्टेनो

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



1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

