



IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCHES "SMC", KOLKATA

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2062/KOL/2024
Assessment Year : 2018-19

ASP Fincorp, 107/1, Park Street, Kolkata -700016, West Bengal PAN : AAWFA7055P	V/s	DDIT, CPC, Bengaluru
Appellant		Respondent

Assessee by	:	Shri R.C. Jhawal, CA
Revenue by	:	Smt. Madhumita Das, Addl. CIT
Date of hearing	:	28.11.2024
Date of pronouncement	:	03.02.2025

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal pertaining to Assessment Year 2018-19 at the instance of assessee is directed against the order dated 30.08.2024 passed by National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (in short 'the Act') which in turn is arising out of Rectification Order dated 04.03.2024 passed u/s. 154 of the Act.

2. Assessee has raised following grounds of appeal :

"1. Under the facts and circumstance of the case the L.D CIT APPEAL was wrong in computing the business income at Rs.6,25,327/- as against the business loss claimed by the assess of Rs.13,82,417 and thus erred in facts as well in law as such the order is liable to be rejected.



2) Under the facts and circumstance of the case the L.D CIT APPEAL was wrong in taking the business income at Rs.6,25,327 which is the profit as per the profit and loss account by ignoring the rental income of Rs.20,07,774/- already considered under house property income as per computation of business income. And by ignoring the submission of the appellant pointing out the mistake of the A.O.

3) Under the facts and circumstance of the case the L.D CIT APPEAL was wrong in not considering the submission of the appellant clearly pointing out the mistake of the AO while making the adjustment of house property income as per annexure attached to the intimation u/s 143(1) by making a wrong addition and ignoring the loss claimed by the appellant.

4) The appellant leave, crave, to add or alter any other grounds on or before hearing of the appeal.”

3. Facts in brief are that the assessee is a partnership firm, filed the original return of income on 21.07.2018 declaring income of Rs.25,774/-. Source of income is from business of commodities and rent. Thereafter, there were certain series of rectification applications filed by the assessee one after the other on account of certain wrong adjustments made by CPC, not allowing of TDS credit. However, in response to the second last rectification application on 18.09.2023, the CPC allowed the TDS credit of Rs.2,03,786/- but determined the income of the assessee at Rs.20,33,518/-. The assessee again filed rectification application requesting to rectify the mistake of figures taken for business income and brought forward and carry forward of business loss but the CPC found no apparent mistake vide order u/s.154 of the Act dated 04.03.2024.

4. Against the said rectification order u/s.154 of the Act dated 04.03.2024 rejecting the assessee's application, an appeal was preferred by the assessee before the CIT(A) and again furnished certain details but finally failed to succeed.



5. Now the assessee is in appeal before the Tribunal against the impugned order passed by ld.CIT(A).

6. Ld. Counsel for the assessee referring to various documents including audited profit and loss account, computation of income and other details filed in the paper book running into 75 pages contended that the returned income of the assessee at Rs.25,774/- was to be accepted and there is no basis in assessing the income at Rs.20,33,518/-.

7. On the other hand, ld. Departmental Representative vehemently argued supporting the orders of the lower authorities.

8. I have heard the rival contentions and perused the record placed before me. The assessee is aggrieved with the adjustments made by CPC determining the income at Rs.20,33,518/- as against the returned income of Rs.25,774/-. However, when the profit and loss account and the computation of income of assessee is perused, certain grave mistakes are noticed which have been made at the end of the assessee and wrong computation has been filed. To buttress this observation, I notice that in the profit and loss account, the gross receipts includes sales at Rs.3,01,900/-, rent at Rs.20,07,744/- and profit on sale of mutual funds at Rs.2,85,526/-. The profit before tax comes to Rs.15,25,327/- and the assessee further claimed remuneration to partners and interest to partners at Rs.9.00 lakh. There remains net profit of Rs.6,25,327/- but loss of Rs.6,17,363/- has been mentioned which has been transferred to partners capital account.



9. Secondly, I observe that the assessee has claimed rental income as Income from house property and also claimed standard deduction of 30% at Rs.6,00,013/- and deduction of lease rent paid at Rs.7,701/- which finally gives the rental income from house property at Rs.14,00,030/-. This rental income being not being a business income, the assessee is entitled to deduction of remuneration to partners against such income. However, the assessee has claimed the deduction of remuneration to partners against this rental income. Thirdly, if the rental income is reduced from the profit as per the profit and loss account, what remains is the loss of Rs.13,82,417/-. Further, after adjustment of Demat charges and lease rent paid appearing in the computation of income placed at page 51 of the paper book at Rs.460/- and Rs.7,701/-, the loss is shown at Rs.13,74,256/-. Even if the partners salary and partners interest of Rs.9.00 lakh appropriated in the profit and loss account is added back to the loss, there remains business loss of Rs.4,74,256/-. These observations clearly indicate that the assessee has wrongly computed the partners salary and claimed the deduction thereof and also has made various other mistakes in the profit and loss account and computation of income so as to arrive at the correct income for the year. Under these given facts and circumstances, ld. DR having failed to rebut these observations, I deem it proper that the issues raised in the instant appeal deserves to be restored to the file of Jurisdictional Assessing Officer for necessary consideration and to examine the revised computation of income to be filed by the assessee. AO is also directed to examine to the claim of brought forward losses and carried forward losses to be allowable to the assessee in accordance with law. Needless to say, the assessee will be given



reasonable opportunity of hearing in such proceedings. Effective grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced on this 03rd day of February, 2025.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे/Pune; दिनांक / Dated : 03rd February, 2025
Satish

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “(SMC)” बेंच, Kolkata/ DR, ITAT, “(SMC)” Bench, Kolkata.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar,
ITAT, Kolkata