

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2279/PUN/2024
निर्धारण वर्ष / Assessment Year : 2022-23

Shanayaa Industries Private Limited, H.No.1659, Survey No.5, Kirwali Village, Opp. Santosh Hotel, Panvel, Raigarh- 410208. PAN : AAZCS6034L	Vs.	Assessment Unit, Income Tax Department.
Appellant		Respondent

Assessee by : None
Revenue by : Shri Arvind Desai
Date of hearing : 25.02.2025
Date of pronouncement : 28.02.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 16.08.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2022-23.

2. When the matter had come up for hearing, none appeared on behalf of the assessee nor any adjournment application was filed despite due service of notice of hearing. From perusal of the order

sheet entry, we find that earlier the Tribunal had granted multiple opportunities of hearing to the assessee, but assessee chose not to respond any of the hearing notices nor any adjournment application was filed. Under these circumstances, we proceed to decide the appeal on the basis of material available on record and after hearing Ld. DR.

3. Facts of the case, in brief, are that the assessee is a private limited company. The return of income was furnished on 16-10-2022 declaring total income of Rs.9,98,580/-. The case was selected for complete scrutiny & notices were issued u/s 142(1) of the IT Act alongwith questionnaire. The assessee furnished part compliance & notices dated 07-12-2023, 22-12-2023 & 29-12-2023 remained un-complied. The assessment was completed u/s 143(3) by determining total income at Rs.1,17,37,787/- against the income returned by the assessee at Rs.9,98,580/-.

4. Since the assessee remained absent Ld. CIT(A)/NFAC dismissed the appeal & confirmed the additions made by the Assessing Officer.

5. Ld. DR appearing from the side of the Revenue relied on the orders passed by subordinate authorities & requested to confirm the same.

6. We have heard Ld. DR & perused the material available on record. In this regard, we find that before the Assessing Officer the assessee complied only in part & did not comply to at least last 3 notices of hearing issued by the Assessing Officer which resulted in additions to income & impugned assessment order. Even in first appeal, Ld. CIT(A) granted not less than 3 opportunities for supporting the grounds of appeal raised by the assessee but the assessee remained non-compliant. Even before us when the case was called for hearing neither anybody appeared nor any application for adjournment was filed, despite due service of notice of hearing. From the perusal of order sheet, we find that on earlier 2 occasions also, when the appeal was fixed for hearing before the Bench, the assessee remained absent. We do not expect such kind of negligent attitude from the assessee, since it is a private limited company. We further find that the Assessing Officer made following additions by observing as under in respective paras of the assessment order :-

“xii. In view of the proviso to section 68, it is concluded that the assessee is under statutory obligation to prove the genuineness of the source of capital introduction i.e. the identity and creditworthiness of the subscriber needs to be proved and authenticity of the transaction involving subscription of capital introduction. However, in the instant case, the assessee has failed through and through to prove the identity, genuineness and creditworthiness of the persons/entities who subscribed to its shares and contributed in the capital. Failure to prove identity, authenticity and genuineness and creditworthiness of share subscribers on the part of assessee invite application of section 68 of the Act. Therefore, amount of Rs. 10,00,000/- is considered as unexplained cash credit of the assessee/s 68 r.w.s. 115BBE of the Act and added to the total income of the assessee for the A.Y. 2022-23.

[Addition:Rs.10,00,000/-]

xiii. Penalty proceedings u/s 271AAC of the Income Tax Act are being initiated separately for A.Y. 2022-23 as per variation/addition to total income as mentioned in para 4.6(xii) above.

xiv. The assessee had declared and claimed an amount of Rs. 23,26,666/- under the head “Long-term loans and advances - Loans and advances to related parties” in its ITR filed for A.Y. 2022-23. Vide notice u/s 142(1) dated 01.08.2023, 23.08.2023, 07.12.2023, 22.12.2023 and 29.12.2023, the assessee was specifically requested to establish existence and nature and quantum of its claim of Long Term Loans and advances extended to related entities during the year under consideration. The assessee was also requested to provide documentary evidence of existence of debtors during the year under consideration. Basic details such as name, address, PAN, agreement if any with debtors, etc were requested. However, the assessee has merely filed name and ledger of Mr. Arshad Khan to whom loan was extended during the year. The assessee has neither furnished copy of loan agreement nor provided any details regarding date and mode of loan disbursal. Also, the assessee failed to provide any justification on creditworthiness of the lendee entity. The assessee has merely filed ITR declaring Long term loans and advances amounting to Rs. 23,26,666/-. The assessee has failed to establish creditworthiness of these debtor entities and genuineness of these loan transactions claimed by it in its ITR.

xv. From the definition itself, it becomes amply clear that loans and advances given are an asset for an entity. However, the source and genuineness of such loan/advance extended and creditworthiness of the entity to whom loan is extended needs to be proved beyond doubt. The assessee has, in spite of being requested repeatedly vide notices u/s 142(1), failed to prove the genuineness of loans/advances extended to

various entities and their creditworthiness claimed in its ITR. Failure to prove authenticity and genuineness of loans and advances claimed in the ITR on the part of assessee invite application of section 69A of the Act. The same is reproduced as under:

“[69A. Unexplained money, etc.—Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing Officer], satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.]”

xvi. Further, the assessee has not provided the genuineness of loan and advance given to related entities and creditworthiness of these related entities. Therefore, amount of Rs. 23,26,666/- is considered as unexplained money of the assessee/s 69A r.w.s 115BBE of the Act and added to the total income of the assessee for the A.Y. 2022-23.

[Addition:Rs.23,26,666/-]

xvii. Penalty proceedings u/s 271AAC of the Income Tax Act are being initiated separately for A.Y. 2022-23 as per variation/addition to total income as mentioned in para 4.6(xvi) above.

xviii. The assessee had declared and claimed an amount of Rs. 16,88,149/- under the head “Trade Receivables” in its ITR filed for A.Y. 2022-23. Vide notice u/s 142(1) dated 01.08.2023, 23.08.2023, 07.12.2023, 22.12.2023 and 29.12.2023, the assessee was specifically requested to explain the nature and source of these trade receivables amounting to Rs. 16,88,149/-. However, the assessee neither furnished any details regarding trade receivables claimed nor provided any documentary evidence in support of its claim regarding trade receivables. The assessee has merely filed ITR declaring trade receivables amounting to Rs. 16,88,149/-. The assessee has failed to establish genuineness and authenticity of trade receivables amounting to Rs. 16,88,149/-.

xix. Since, the trade receivables are part of sales which could not be received during the previous year, they are an integral part of the sales/turnover of the assessee for the year under consideration. However, it is the onus of the assessee to prove genuineness and authenticity of such sales which remained unpaid or is yet to be

received. In the instant case, the assessee has remained silent on this issue despite being repeatedly requested to explain the amount claimed as trade receivable and prove the genuineness of pendency of sales consideration. Also, the assessee has not disclosed the identity of the entities from whom such sales consideration remained pending during the previous year. Due to failure on the part of the assessee, the genuineness and authenticity of the claim of trade receivables amounting to Rs. 16,88,149/- remained unexplained and unverified.

xx. *In such scenario, the provisions of section 69A are attracted:*

“[69A. Unexplained money, etc.—Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing Officer], satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.]”

xxi. *The assessee had declared and claimed trade receivables amounting to Rs. 16,88,149/- in its ITR filed for A.Y. 2022-23. Further, the assessee has not provided the identity of the entities nor proved genuineness of such claim. Therefore, amount of Rs. 16,88,149/- is considered as unexplained money of the assessee u/s 69A r.w.s. 115BBE of the Act and added to the total income of the assessee for the A.Y. 2022-23.*

[Addition: Rs. 16,88,149/-]

xxii. *Penalty proceedings u/s 271AAC of the Income Tax Act are being initiated separately for A.Y. 2022-23 as per variation/addition to total income as mentioned in para 4.6(xxii) above.*

xxiii. *The assessee had declared and claimed an amount of Rs. 5,01,525/- under the head “Short-term loans and advances” in its ITR filed for A.Y. 2022-23. Vide notice u/s 142(1) dated 01.08.2023, 23.08.2023, 07.12.2023, 22.12.2023 and 29.12.2023, the assessee was specifically requested to establish existence and nature and quantum of its claim of Short Term Loans and advances extended to various entities during the year under consideration. The assessee was also requested to provide documentary evidence of existence of debtors during the year under consideration. Basic details such as name,*

address, PAN, agreement if any with debtors, etc were requested. However, the assessee has remained silent on this issue and refrained from divulging any details of the entities to whom loan were extended during the year. The assessee has neither furnished copy of loan agreement nor provided any details regarding date and mode of loan disbursement. Also, the assessee failed to provide any justification on creditworthiness of the lender entities. The assessee has merely filed ITR declaring Short term loans and advances amounting to Rs. 5,01,525/-. The assessee has failed to establish creditworthiness of these debtor entities and genuineness of these loan transactions claimed by it in its ITR.

xxiv. From the definition itself, it becomes amply clear that loans and advances given are an asset for an entity. However, the source and genuineness of such loan/advance extended and creditworthiness of the entity to whom loan is extended needs to be proved beyond doubt. The assessee has, in spite of being requested repeatedly vide notices u/s 142(1), failed to prove the genuineness of loans/advances extended to various entities and their creditworthiness claimed in its ITR. Failure to prove identity, authenticity and genuineness of loans and advances claimed in the ITR on the part of assessee invite application of section 69A of the Act. The same is reproduced as under:

“[69A. Unexplained money, etc.—Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing Officer], satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.]”

xxv. Further, the assessee has not provided the genuineness of short term loan and advance given to various entities and creditworthiness of these entities. Therefore, amount of Rs. 5,01,525/- is considered as unexplained money of the assessee u/s 69A r.w.s. 115BBE of the Act and added to the total income of the assessee for the A.Y. 2022-23.

[Addition:Rs.5,01,525/-]

xxvi. Penalty proceedings u/s 271AAC of the Income Tax Act are being initiated separately for A.Y. 2022-23 as per variation/addition to total income as mentioned in para 4.6(xxv) above.

xxvii. The assessee had declared and claimed an amount of Rs. 4,61,813/- under the head "Cash-in-hand" in its ITR filed for A.Y. 2022-23. Vide notice u/s 142(1) dated 01.08.2023, 23.08.2023, 07.12.2023, 22.12.2023 and 29.12.2023, the assessee was specifically requested to furnish details of the source of cash in hand amounting to Rs. 4,61,813/- as reported by the assessee in its ITR. The assessee was also requested to provide documentary evidence in support of its claim such as cash book, day book, ledgers maintained by it during the year under consideration which resulted in generation of such cash in hand claimed by the assessee. However, the assessee has remained silent on this issue and has avoided divulging any details/documentary evidences. As the assessee has grossly failed to produce documentary evidence and justification for the cash in hand amounting to Rs. 4,61,813/- claimed by it in its ITR for the year under consideration, the same is treated as unexplained. In absence of any reply, the assessment is completed as per material available on record. The assessee had declared and claimed cash in hand amounting to Rs. 4,61,813/- in his ITR filed for F.Y. 2021-22 relevant to A.Y. 2022-23. Further, the assessee has not provided the source of such cash in hand.

xxviii. Here, it would be pertinent to refer to Section 69A of the Income Tax Act, 1961.

“[69A. Unexplained money, etc.—Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing Officer], satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.]”

xxix. The assessee had declared and claimed cash in hand amounting to Rs. 4,61,813/- in its ITR filed for A.Y. 2022-23. Further, the assessee has not provided the source of such cash in hand. Therefore, amount of Rs. 4,61,813/- is considered as unexplained money of the assessee/s 69A r.w.s. 115BBE of the Act and added to the total income of the assessee for the A.Y. 2022-23.

[Addition:Rs.4,61,813/-]

xxx. Penalty proceedings u/s 271AAC of the Income Tax Act are being initiated separately for A.Y. 2022-23 as per variation/addition to total income as mentioned in para 4.6(xxix) above.

xxxi. On perusal of the ITR filed by the assessee u/s 139 for the A.Y. 2022-23, it is noticed that the assessee has claimed to have made following expenses:

S.No.	Expense particular	Amount
i.	Direct Wages	10,48,330/-
ii.	Carriage inward	15,75,200/-
iii.	Compensation to employees Salaries and wages	13,36,350/-
iv.	Power and fuel	60,793/-
v.	Workmen and staff welfare expenses	16,000/-
vi.	Traveling expenses other than on foreign traveling	78,800/-
vii.	Telephone expenses	15,599/-
viii.	Packing Material	5,22,100/-
ix.	Office Expenses	39,530/-
x.	Repairs & Maintenance	68,352/-
Total		47,61,054/-

xxxii. Vide notices issued u/s 142(1) dated 01.08.2023, 23.08.2023, 07.12.2023, 22.12.2023 and 29.12.2023, the assessee was specifically requested to establish genuineness of these above mentioned expenses amounting to Rs. 47,61,054/-. The assessee was also requested to furnish name and address of entities to whom these expenses were

paid, copy of invoices, ledger, proof of payment, copy of bank statement highlighting payment of these expenses incurred during the year under consideration. However, the assessee has remained silent on these issues and did not comply with the notices issued to it from time to time. Moreover, the assessee neither furnished any details regarding these expenses claimed to have been incurred by it nor provided any documentary evidence such as name and address of entities to whom these expenses were paid, copy of invoices, ledger, proof of payment, copy of bank statement highlighting payment of these expenses. The assessee has merely filed ITR u/s 139 of the Act. The assessee has failed to establish genuineness of these expenses incurred/claimed to have been incurred by it. A mere mention of certain amount as expenses does not tantamount to valid, reliable, allowable and genuine business expense. Even after being repeatedly requested through statutory notices, the assessee has not furnished even a single evidence in support of its contention/claim. This proves that the claim of the assessee regarding these expenses was not genuine and the assessee has merely tried to hoodwink the revenue authorities by claiming bogus and fictitious expense incurred in business. Since, the assessee has grossly failed to establish the very genuineness of its claimed expenses, the claim of the assessee regarding expenses amounting to Rs. 47,61,054/- as reported by the assessee in his ITR filed u/s 139 cannot be treated as genuine expenses. But since, the assessee has shown/admitted Rs.47,61,054/-as expenses incurred by it in its ITR but failed to establish the genuineness of such expenses and source of funds/money utilised to incur such expenses, the provisions of section 69C of the Act are attracted in this case.

“69C. Unexplained expenditure, etc. —Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the [Assessing Officer], satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year:”

xxxiii. In light of above discussion, it is evident that the expenses claimed by the assessee amounting to Rs. 47,61,054/- during the F.Y. 2021-22 remained unverified and hence unexplained. Since, the assessee has failed to establish the genuineness of these expenses and also the source of funds utilised for incurring these expenses due to failure on the part of the assessee, these expenses are treated as unexplained. Accordingly, an amount of Rs. 47,61,054/- is treated as unexplained expenditure of the assessee u/s 69C r.w.s. 115BBE of the

Act and added to the total income of the assessee for the A.Y. 2022-23.”

7. Since no submission was made before us, in support of grounds of appeal with regard to above additions, we are unable to draw any inference. We therefore confirm the order passed by the Assessing Officer & dismiss the appeal filed by the assessee.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on this 28th day of February, 2025.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 28th February, 2025.

Sujeet

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, “B” बेंच, पुणे / DR, ITAT, “B” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.