

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.424/Ind/2024
Assessment Year:2017-18

Saharayn Universal Multipurpose Society Ltd. 195 Zone 1 in front of DB Mall, M.P. Nagar Bhopal (Assessee/Appellant)	<u>बनाम/</u> <u>Vs.</u>	DCIT/ACIT-1(1) Bhopal (Revenue/Respondent)
PAN: AAKAS6209A		
Assessee by	Shri Pravin Kumar Bansal, AR	
Revenue by	Shri Ram Kumar Yadav, CIT-DR	
Date of Hearing	13.02.2025	
Date of Pronouncement	27.03.2025	

आदेश / ORDER

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal dated 28.03.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 30.12.2019 passed by learned DCIT/ACIT-1(1), Bhopal ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal on following grounds:

"1. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in confirming the order passed by the Assessing Officer ignoring the claim made by the appellant in respect of expenses which were otherwise allowable as per Mercantile System of accounting and were claimed in the revised computation filed during the course of assessment proceedings.

2. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in not appreciating that the appellant has made a legal claim during the course of assessment and, therefore, the Assessing Officer is not justified in not considering the same.

3. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in confirming the disallowance of legal claim made by the appellant during the course of assessment proceedings by filing a revised computation although, it is the duty of the Assessing Officer to assess the correct taxable income of the appellant as per guidelines of C.B.D.T.

4. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in confirming the disallowance of Rs.111,68,25,418/- by treating the same to be an addition made by the Assessing Officer whereas, the appellant had voluntarily offered the same to tax in the revised computation filed prior to any inquiry by the Assessing Officer in this respect.

5. That the Ld. CIT(A) is not justified in not allowing the claim of the appellant made under section 40(a)(ia) of the Income-tax Act, 1961 in respect of payments which were added in the preceding year but the TDS relatable thereof was deposited during the year under assessment.

6. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in sending back to the Assessing Officer in respect of allowability of claim of Rs. 170,03,33,154/- being 30% of Cooperative Educator Expenses in respect of which TDS was not deposited in earlier year but was deposited during the Assessment Year 2017-18 and, therefore, the same were fully allowable under section 40(a)(ia) of the Income-tax Act, 1961.

7. That in any view of the matter, the Ld. CIT(A) has erred in law and on facts and circumstances of the case in directing the Assessing Officer in respect of claim of Cooperative Educator Expenses of Rs. 22,60,06,968/- for verification and allowability thereof during the year under assessment while holding that the same stands considered by Assessing Officer already in the assessment order while working out the disallowance under section 40(a)(ia) of the Income Tax Act, 1961.

8. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in confirming the action of the Assessing Officer whereby he has only considered part of the revised computation filed by the appellant during the course of assessment proceedings wherein income was offered to tax by the appellant, while he remained silent and not allowed the claim of the expenses, which was forming part of the same revised computation filed by the appellant.

2. The background facts leading to present appeal are such that the assessee is a society governed under the provisions of Multi State Co-operative Societies Act, 2002. For AY 2017-18, the assessee filed return declaring a total income of Rs. 34,49,647/- which was subjected to scrutiny assessment through notices u/s 143(2)/142(1). During scrutiny proceedings, the AO show-caused assessee to explain certain issues one of which was the proposed disallowance of Rs. 3,91,76,21,514/- u/s 40(a)(ia) for non-deduction of tax at source. The assessee filed reply dated 24.07.2019 to AO submitting that a sum of Rs. 1,11,68,25,418/- was only disallowable [being 30% of Rs. 3,72,27,51,392/- consisting of co-operative educator expenses of Rs. 3,68,32,01,392/- (+) payments to contractors of Rs. 11,50,000/- (+) payment of office rent of Rs. 3,84,00,000/-]. Considering assessee's submission, the AO completed assessment u/s 143(3) vide order dated 30.12.2019 after making a disallowance of Rs. 1,11,68,25,418/- u/s 40(a)(ia). After completion of assessment, the assessee carried matter in first-appeal before CIT(A). The CIT(A) disposed assessee's first-appeal vide order dated 28.03.2024. Now, the assessee has come in next appeal before Tribunal.

3. Before us, Ld. AR for assessee made a straightforward submission that the present appeal filed by assessee is infructuous and may be dismissed. Ld. AR also made a brief submission qua various grounds raised by assessee as under:

- (i) **Ground Nos. 1, 2 and 3** - Ld. AR submitted that the assessee is not pressing these grounds as the CIT(A) has already allowed assessee's grievances on merit.
- (ii) **Ground No. 4** - Ld. AR submitted that this ground does not arise because the AO made disallowance of Rs. 1,11,68,25,418/- u/s 40(a)(ia) on the basis of self-admission of assessee during scrutiny-proceeding vide letter dated 24.07.2019 and the CIT(A) has merely confirmed such addition.
- (iii) **Ground No. 5 to 6** - Ld. AR submitted that the claims raised in these grounds have already been adequately adjudicated by CIT(A) in Para 9.1 of impugned order.
- (iv) **Ground No. 7** - Ld. AR submitted that the claim raised in this ground has already been allowed by CIT(A) in Para 8.1 of impugned order.
- (v) **Ground No. 8** - Ld. AR has not made any submission qua this ground. Accordingly, this ground is treated as non-pressed/non-pleaded.

4. Ld. DR for revenue would have no objection against the submission of Ld. AR.

5. In view of above, we do not find any merit in this appeal which is admitted to be infructuous by Ld. AR and also accepted so by Ld. DR without raising any objection. Accordingly, we are inclined to dismiss this appeal which is without any merit.

6. Resultantly, this appeal is dismissed.

Order pronounced by putting up on notice board
as per Rule 34 of ITAT Rules, 1963 on 27/03/2025

Sd/-

(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 27/03/2025

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore