

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad
श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A. No.1267/Hyd/2025
(निर्धारणवर्ष/ Assessment Year:2018-19)

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| Aswin Enterprises, Hyderabad. PAN: AAMFA8323N | VS. | Income Tax Officer, Ward-4(1), Hyderabad. |
| (अपीलार्थी/ Appellant) | | (प्रत्यर्थी/ Respondent) |

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| करदाताकाप्रतिनिधित्व/ Assessee Represented by | : | Shri Pavan Kumar Gorti, CA |
| राजस्वकाप्रतिनिधित्व/ Department Represented by | : | Shri AVES Madhukar, Sr. AR |
| सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing | : | 17/03/2026 |
| घोषणा की तारीख/ Date of Pronouncement | : | 30/03/2026 |

ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee firm is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 13/06/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 147 r.w.s 144B of the Income Tax Act, 1961 (for

short, "the Act"), dated 19/04/2021 for the Assessment Year (AY) 2018-

19. The assessee has assailed the impugned order of the CIT(A) on the

following grounds of appeal:

"1. The order of the learned Assessing Officer is bad in law & on facts and is against all canons of equity and natural justice.

2. The learned Assessing Officer, in disallowing the entire direct expenditure viz., commission of Rs.97,71,329, Salaries of Rs.24,46,699, travelling expenses of Rs.3,51,246 other expenses of Rs.7,48,497 and also remuneration paid to partners amounting to Rs. 16,00,000 total amounting to Rs.1,49,17,771 which are essential for earning commission income by the appellant firm.

3. The learned Assessing Officer grossly erred in understanding the laid down principles of accounting and making an addition of Rs.19,149 on account of difference between commission income as per return of income and commission income as per Form 26AS.

4. The learned Assessing Officer, erred in ignoring the provisions of section 40(b) of the Income Tax Act, 1961 with respect to payment of remuneration to partners amounting to Rs. 16,00,000/-.

5. The Ld. AO while rejecting the books of account, failed to apply the best judgement analysis and instead considered the entire Income ignoring the corresponding expenses which are essential for earning the income.

6. The learned Assessing Officer had failed to appreciate the facts and circumstances of the appellant due to the COVID19 pandemic and the partner's medical condition.

7. The Appellant prays to add, alter or delete any ground(s) either before or in the course of hearing the appeal."

2. Succinctly stated, the assessee firm had filed its return of income for AY 2018-19 on 29/10/2018, declaring an income of Rs. 25,71,280/-.

Subsequently, the case of the assessee firm was selected for "complete scrutiny" under E-assessment Scheme, 2019 for verifying, viz. (i) claim for deduction of business expenses; and (ii) low income compared to large commission receipts. The AO issued notices under section 142(1) of the Act, dated 05/02/2020 and 26/02/2020, wherein part submissions

were filed by the assessee firm. As the assessee firm failed to furnish the reply to the remaining queries, the AO issued notices under section 142(1) of the Act, dated 27/01/2021, 08/03/2021 and 25/03/2021, pursuant where to, the assessee firm filed its response vide submission, dated 30/03/2021. Thereafter, the AO issued a show cause notice (SCN), dated 12/04/2021, wherein it was called upon to explain that as to why certain additions/disallowances may not be made in its case. In reply, it was submitted by the partner of the assessee firm that as all his three family members during the pandemic situation were suffering from certain medical issues, therefore, the reply to the queries could only be filed to the extent possible. The AO, taking cognizance of the fact that the assessee firm, despite having been given sufficient opportunities, had failed to substantiate/justify its claim of expenditure based on supporting documentary evidence, thus proceeded to frame the assessment based on the material available on record. Thereafter, the AO observed that the assessee firm had claimed deduction of expenses of Rs. 97,71,329/-. On being queried, the assessee firm had submitted the full list of commission payments along with TDS certificates. Also, it was brought to the notice of the AO that all the commission payments were made through banking channels to the agents who had duly disclosed the same as their income in their respective returns of income. However, the AO observed that the assessee had failed to submit certain material details to substantiate its claim for deduction of

expenditure, viz., (i) copy of agreement made with the persons to whom the commission was paid; (ii) details regarding the rate of commission payment, services rendered, places where services were rendered (party wise) and paper trails (evidences like email, correspondence etc.) in support its claim that services were rendered by the parties for which commission was paid to them; (iii) ledger account of commission expenses along with copy of one bill for each party; and (iv) copy of ledger accounts regarding the commission payment. Accordingly, the AO holding a conviction that the assessee firm had failed to substantiate its claim of having incurred commission expenditure, disallowed the entire amount of commission expenses of Rs. 97,71,329/-.

3. Apart from that, the AO observed that a perusal of Form 26AS of the assessee firm revealed that it had underreported its commission income received from M/s. Jindal Poly Films Limited to the tune of Rs. 19,149/-. Although it was the claim of the assessee firm that the impugned difference was due to the inclusion of GST, but the AO, in the absence of any supporting documentary evidence, did not accept the aforesaid claim of the assessee firm.

4. Further, the AO called upon the assessee firm to submit complete details along with supporting evidence pertaining to the expenses debited in its Profit & Loss account. However, the AO observing that the assessee firm had failed to submit the details of the expenses along

with the supporting evidences, viz., copy of the invoices, ledgers, confirmation, bank account statements, copy of return of income, confirmation and bank statement of the partners to justify its claim for deduction of expenses, thus disallowed the total expenses of Rs.51,46,442/-, viz., (i) salary and wages: Rs.24,46,699/-; (ii) travelling expenses: Rs.3,51,246/-; (iii) remuneration of partners: Rs.16,00,000/-; and (iv) other expenses: Rs.7,48,497/-. Accordingly, the AO, vide his order passed under section 143(3) r.w.s. 144B of the Act, dated 19/04/2021, determined the total income of the assessee firm at Rs.1,75,08,200/-.

5. Aggrieved, the assessee firm carried the matter in appeal before the CIT(A). As the assessee firm despite having been put to notice of the hearing of the appeal vide three notices, dated 15/12/2021, 08/04/2024 and 19/04/2024, had not effectively prosecuted the matter, therefore, the CIT(A) after referring to the observations of the AO upheld the same primarily for the reason that the assessee firm had failed to furnish any explanation/evidence to dislodge the respective additions/disallowances made by him.

6. The assessee firm, being aggrieved with the order of the CIT(A), has carried the matter in appeal before us.

6. We have heard the Learned Authorised Representatives of both parties, perused the orders of the authorities below and the material available on record.

7. Shri Pavan Kumar Gorti, CA, Learned Authorized Representative for the assessee firm (for short, "Ld.AR") at the threshold of hearing of the appeal, submitted that the assessee firm could not effectively pursue the assessment proceedings for the reason that the family members of its partner during the COVID Pandemic were taken medically unwell and thus, the requisite details were called for by the AO could not be fully collated and filed before him. Coming to the CIT(A) order, the Ld. AR submitted that though the assessee firm had filed the appeal before the CIT(A) way back on 30/05/2021, but the same was disposed of by him after a period of more than 4 years vide his order dated 13/06/2025. The Ld. AR vehemently submitted that though the assessee firm had failed to participate in the proceedings before the CIT(A), but the latter except for referring to the observations of the AO had failed to advert to the specific "grounds of appeal" based on which the impugned assessment order was assailed before him, and had disposed of the appeal by merely approving the view taken by the AO. The Ld. AR to buttress his aforesaid contention had taken us through Para No.6.1 of the CIT(A) order. The Ld. AR submitted that as the assessee had suffered the dismissal of his appeal vide a non-speaking order, therefore, the same, in all fairness, be set aside to the

file of the CIT(A) with a direction to re-adjudicate the same after affording a reasonable opportunity of being heard.

8. Per contra, Shri Aves Madhukar, Learned Senior Departmental Representative (for short, "Ld. Sr-DR") submitted that as the assessee firm had neither effectively participated in the assessment proceedings and furnished the details that were subsequently called for by the AO nor prosecuted the matter before the CIT(A), therefore, its lackadaisical approach qua the Income Tax proceedings can safely be gathered. Elaborating further on his contention, the Ld. DR submitted that, considering the past record in the case of the assessee firm for the subject year, there was no justification for him to seek setting aside of the appellate order and affording of a new inning.

9. We have given thoughtful consideration to the facts involved in the present case in the backdrop of the orders of the authorities below.

10. Admittedly, it is a matter of fact discernible from the record that the assessee firm in the course of the assessment proceedings had failed to furnish the complete details, due to which the AO was constrained to make the impugned additions/disallowances in the absence of documentary evidence supporting its claim for deduction of expenses. However, we cannot remain oblivion of the fact that the assessee firm in the course of the assessment proceedings, had vide his submission, dated 17/04/2021, inter alia, submitted before the AO

that he along with all the three of his family members during the COVID Pandemic were taken unwell with medical issues, therefore, the complete details could not be collated, and to the extent available had been filed. However, we find that the assessee firm had, thereafter, in the course of the proceedings before the CIT(A), failed to respond to the first two notices, dated 15/12/2021 and 18/04/2024. Although we find that the assessee had in response to notice, dated 19/04/2024, requested for an adjournment, but there is nothing discernible from the record which would reveal that as to what course of action it had resorted to after the said date. Although, the lackadaisical and casual approach of the assessee firm regarding its income tax proceedings cannot be put under the carpet and summarily brushed aside, but at the same time, cannot lose sight of the fact that the additions/disallowances made by the AO, wherein he had disallowed its entire claim of deduction of certain expenses, viz., (i) salary and wages: Rs.24,46,699/-; (ii) travelling expenses: Rs.3,51,246/-; (iii) remuneration of partners: Rs.16,00,000/-; and (iv) other expenses: Rs.7,48,497/- also does not inspire any confidence. It is difficult to comprehend that the assessee firm, which had not been shown to be a bogus/sham concern, would not have incurred any expenditure in the course of its business. However, without expressing any view on the observations of the AO, we are of a firm conviction that considering the totality of the facts involved in the present case, the matter, in all fairness and in the

interest of justice, requires to be set aside to the file of the AO for fresh adjudication. Accordingly, we herein set aside the matter to the file of the AO with a direction to frame the assessment afresh after affording a reasonable opportunity of being heard to the assessee firm.

11. Resultantly, the appeal filed by the assessee firm is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the open court on 30th March, 2026.

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| Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखासदस्य/ACCOUNTANT MEMBER | Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिकसदस्य/JUDICIAL MEMBER |
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Hyderabad, dated 30/03/2026.

**OKK/sps

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

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| 1. | निर्धारित/ The Assessee | : | ASWIN ENTERPRISES D. No. 3-4-758, Flat 305, Lakshmi Bala Krishna Nivas, Barkatpura, Hyderabad, Telangana-500027. |
| 2. | राजस्व/ The Revenue | : | Income Tax Officer, Ward 4(1) Aayakar Bhawan, Opp. LB Stadium, Hyderabad, Telangana-500004 |
| 3. | The Principal Commissioner of Income Tax, Hyderabad. | | |
| 4. | विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad. | | |
| 5. | The Commissioner of Income Tax | | |
| 6. | गार्डफाईल / Guard file | | |

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad.