

**THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER &
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No. 2952/Del/2023
(Assessment Year 2017-18)**

ACIT, Circle 10(1) Room No.389A, 3 rd Floor, C R Building, IP Estate, Delhi - 110001	Vs.	M/s Hella India Lighting Ltd, K-61B, LGF, Nehru Place, South Delhi, New Delhi-110019
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: AAACJ0101G		
Appellant	..	Respondent

Appellant by :	Sh. Surender Pal, CIT, DR
Respondent by :	Sh. Ved Jain, Adv & Sh. Aman Garg, CA

Date of Hearing	30.12.2024
Date of Pronouncement	15.12.2024

ORDER

PER MADHUMITA ROY, JM:

The instant appeal filed by the assessee is directed against the order dated 21.08.2023 passed by the National Faceless Appeal Centre (NFAC) arising out of the order dated 16.12.2019 passed by the DCIT, Circle 11(1), Delhi under Section 143(3) of the Income Tax Act, 1961 for Assessment Year 2017-18.

2. The revenue has come up in appeal mainly on the following grounds:

1st Ground relates to addition under Section 69C of the Act amounting to Rs.6,80,46,732/- and disallowance of expenses amounting to Rs.3,15,04,500/-:

3. Heard the parties, perused the records.

3. The brief facts leading to the case are that the assessee engaged in the business of manufacturing of automobile components filed its return of income on 27.11.2017 declaring income at Rs.4,47,82,110/-. The case was selected for scrutiny through CASS for complete scrutiny and notice under Section 143(2) followed by notice under Section 142(1) along with questionnaire was issued and served upon the assessee. The assessee purchased fixed assets of Rs.6,80,46,732/- but the assessee, since failed to submit the documentary evidences in support of such purchase bills and vouchers though proof of banking transactions in relation to that purchases was furnished the said expenses was added to the income of the assessee treating the same as bogus purchase which was in turn deleted by the Ld. CIT(A) on the basis of the remand report submitted by the Ld. AO appearing at page 165 to 169 of the paper book before us. Hence, the instant appeal before us.

3. In fact, before the First Appellate Authority the assessee provided a complete list of fixed assets added to the BOA during the year under consideration along with their invoices whereupon remand report was called for and in the remand report those documents being the proof of purchase made by the assessee has been accepted.

Hence, the issue was decided in favour of the assessee by deleting the addition by the Ld. CIT(A) which in our considered opinion is just

and proper so as not to warrant interference. This issue as raised by the revenue, thus, is found to be frivolous and dismissed.

5. The assessee company claimed other expenses of Rs.3,15,04,500/- details whereof were directed to be produced by the AO. The assessee company claimed the expenses being verified and vouched by the auditors as the same was made through account payee cheque or account payee bank drafts. Other documents in support of the same was not in the possession of the assessee. As the assessee failed to show the expenses incurred wholly and exclusively for the purpose of running the business and failed to justify the allowability and the veracity of the expenses incurred under Section 37(1) of the Act as alleged 10% of other expenses as income of the assessee was disallowed by the Ld. AO.

6. Before the First Appellate Authority the assessee furnished the entire details of other expenses from the audited financial results and submitted the substantial invoices in support of the same whereupon the remand report was sought for. In the remand report dated 10.03.2023 the following observation was made by the Ld. AO:

“Disallowance of expenses u/s 37:

The AO has made the ad hoc addition @10% of the other expenses u/s 37 of the Income Tax Act as the assessee has failed to justify the allowability and also veracity of expenses u/s 37(1) of the Act and also failed to submit the documentary evidences in support of the such expenses.

The assessee has inter alia claimed various expenses detail of which are as under:

- i. Consumable Store and Spares

- ii. Power and Fuel
- iii. Travelling and Conveyance Expenses
- iv. Freight Outward
- v. Contractual Manpower
- vi. Legal & Professional Expenses
- vii. Payment to Auditors
- viii. Rental Expenses
- ix. Insurance Expenses
- x. Repair & Maintenance
- xi. Vehicle running and maintenance expenses
- xii. Printing and stationery
- xiii. Bank Charges
- xiv. Communication Expenses
- xv. Bad Debts
- xvi. Advance Written off
- xvii. CSR Expenses
- xviii. Loss on sales of Fixed Assets
- xix. Royalty
- xx. Sales Promotion and advertisement Expenses

Detail and substantial invoices in respect of above items were furnished by the assessee and the same were verified on test check basis and found in correct order.

Advance Written off: It is submitted by the assessee these items pertain to capital advance given to the supplier of capital goods and because suppliers failed to supply the goods, TDS balance recoverable and security deposit etc. Such advances were written off in the books and out of the said amount, Rs. 4, 12,656/- related to capital expenditure duly added back in the computation of total income.

CSR Expenses: The assessee has submitted that it is statutory liable to incur certain percentage of profit as CSR Expenses which have already been added back in the computation of total income.

Loss on sales of Fixed Assets: Loss arises at the time of sale or disposal of fixed assets, being capital nature, has been added back in the computation of total income.

Warranty Expenses: The Assessee company has submitted that it has made the provisions for warranty expenses amounting to Rs. 3,53,98,047/- during the year, and out of the said amount, a sum of Rs. 2,94,89,106/- has been added back while computing its total income.”

7. Taking into consideration the remand report furnished by the AO where the invoices have been verified on test check basis and found in correct order, the said other expenses amounting to Rs.3,15,04,500/- has been deleted by the Ld. CIT(A) which is found to be just and proper so as not to warrant interference. Hence this ground of appeal rejected.

Disallowance of foreign exchange loss of Rs.96,70,990/-:

8. Heard the parties, perused the records.

8. The appellant company booked loss of Rs.96,70,990/- which has been directed to justify by the Ld. AO upon issuing of show cause notice, in response whereof it was submitted that such loss was on account of foreign exchange transactions related to import and export transactions. Further that no hedging has been done as hedging cost sometime work more than the exchange earning. Relying upon the judgment passed by the Hon'ble Supreme Court in the case of M/s Quippo Oil & Gas Vs. Addl. CIT, New Delhi, the loss has been disallowed and added to the total income of the assessee which was in turn deleted by the Ld. CIT(A).

9. As it is a trite law that gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss as the case may be and the same shall be computed in accordance with the income computation and disclosure standards notified under sub-section (2) of Section 145 of the Act, considering in AS-11 and Section 43AA the First Appellate Authority found the said foreign exchange fluctuation loss is claimable by the assessee. Further that the sole consideration for disallowing the loss claimed by the assessee was only for the reason that the said loss was on account of foreign exchange transaction related to import and export transactions and no hedging had been done whereas

the assessee's case is this that hedging cost sometime work more than the exchange earning. Apart from that the AO has not raised any doubt on the calculation of such foreign exchange loss amount and in that view of the matter relying on the judgment passed by the Hon'ble Supreme Court in the case SA Builders Ltd. VS. CIT, reported in 2007 (1) SCC 781 dated 14.12.2006 and the judgment passed by the Hon'ble Delhi High Court in the case of CIT Vs. Dalmia Cement (Bharat) Ltd., reported in (2002) 254 ITR 77 holding that when it has been established that there was nexus between expenditure and the purpose of business, revenue is not justified in claiming to put itself in the armchair of the businessman or in the position of the Board of Directors and assume the role to decide how much is the reasonable expenditure, having regard to the facts and circumstances of the case and no businessmen can be compelled to maximize its profits, the Ld. CIT(A) found substance in the case made out by the assessee and deleted the addition made by the AO which in our considered view is just and proper so as not to warrant interference. This ground of appeal filed by the revenue is found to be devoid of merit and hence dismissed.

9. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 15.12.2024

Sd/-

(Brajesh Kumar Singh)
ACCOUNTANT MEMBER

Sd/-

(Madhumita Roy)
JUDICIAL MEMBER

Dated 15.12.2024

PS: Rohit

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI