

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B-Bench" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI GAGAN GOYAL, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 1049/JPR/2024
निर्धारण वर्ष/Assessment Year : 2011-12

Adworld Communications Pvt. Ltd., A-29, District Centre Main Road, Jawahar Nagar, Ladpura, Kota 324005	बनाम Vs.	The DCIT, Central Circle, Kota.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAHCA6827F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Mahendra Gargieya, Adv. (through V.C.) &
Shri Devang Gargieya, Adv.
राजस्व की ओरसे / Revenue by: Mrs. Swapnil Parihar, JCIT-DR

सुनवाई की तारीख / Date of Hearing : 24/04/2025
उद्घोषणा की तारीख / Date of Pronouncement: 29/04/2025

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER

This appeal by assessee has been filed against the order dated 13.06.2024 passed u/s. 250 of the Income Tax Act, 1961 (in short "the Act"), Learned CIT(A), Udaipur-2, relating to the A.Y. 2011-12.

2. Vide impugned order, Learned CIT(A) has partly allowed the appeal filed by the assessee. There, the assessee challenged assessment order dated 24.12.2018, whereby its total income was computed at Rs. 93,48,489/-after addition of Rs. 91,19,932/-was made under section 145 of the Act.

3. The addition came to be made as the Assessing Officer was not satisfied about the correctness of the accounts of the assessee, especially, when the assessee failed to produce cash book, bill vouchers and a number of expenses incurred and paid through cash modes could not be verified certain payments having been made through self made vouchers.

4. While applying provisions of section 145(3) of the Act, the Assessing Officer disallowed 10% of the expenses claimed by the assessee, and made the addition noticed above.

5. That is how, matter reached Ld. CIT(A). While disposing of the appeal, Learned CIT(A) restricted the addition to Rs. 18,70,109/-as he worked out the disallowance of Rs.20,19,274/-, the assessee having already declared income of Rs. 1,49,165/-in the ITR submitted under section 148 of the Act.

6. Arguments heard. File perused.

7. In this appeal, the assessee has raised following grounds of appeal:

“1. The very action taken u/s. 147 r/w. 148 dated 24.12.2018 is bad in law without jurisdiction and being void ab-initio, the same kindly be quashed. Consequently, the impugned assessment framed u/s 143(3)/148 dated 24.12.2018 also kindly be quashed.

2. Rs. 18, 70,109/-: The Ld. CIT (A) erred in law as well as the facts of the case in confirming the application of S.145 (3). The provision so invoked and confirmed by the CIT (A) being contrary to the provisions of law and facts, the same may kindly be quashed. Consequently, the trading addition may kindly be deleted in full.

3. The Ld. CIT (A) further erred in law as well as on the facts of the case in applying the NP rate of 2.16% as against 0.36% declared by the assessee and 10% applied by the AO. The N.P. rate so applied and addition so made by the AO and partly sustained by the Ld. CIT (A) is totally contrary to the provisions of law and facts on the record and hence the addition may kindly be deleted in full.

4. the appellant prays your honour to add, amend or alter any of the grounds of the appeal on or before the date of hearing.....”

8. Brief facts of the case are that a survey action u/s. 133A of the Act was carried out at the business premises of the assessee. As per the AST data available with the department, the assessee failed to comply with section 139 of the Act for the year under consideration, despite the fact that the assessee's total business receipt was Rs. 7,96,67,680/-. In view of this figure under the head “business” and non-filing of return, a notice u/s. 148 of the Act was issued vide dated 26.03.2018.

In response thereto, the assessee filed a return on 25.04.2018 declaring total income of Rs. 1, 49,170/-, i.e. 0.187% of the Gross Receipts. It was observed by the AO that despite the fact that the accounts of the assessee were liable to tax audit u/s. 44AB of the Act, no tax audit was got conducted.

In view of all the facts and after a detailed deliberation amongst the assessee and the AO, the case of the assessee was assessed while applying the provisions of section 145(3) of the Act and income was estimated after rejection of expenses claimed in the profit & loss account @ 10% amounting to Rs. 93,48,489/-, as noticed above.

Ld. CIT(A) partly allowed the appeal by sustaining the addition to the extent of 2.16% of expenses claimed in the Profit & Loss account amounting to Rs. 20,19,274/-. The assessee feeling still aggrieved preferred the present appeal before this Appellate Tribunal.

9. We have gone through the order of the AO, order of the Ld. CIT (A) and submissions of the assessee alongwith grounds raised before us.

10. It is observed that out of total revenue of Rs. 7,96,67,680/- the assessee received Rs. 7,70,69,109/- only from one party M/s. Resonance Eduventures Ltd. For the preceeding assessment year against the turnover of Rs. 10,60,05,001/-, the assessee declared N.P. @ 1.18% amounting to

Rs. 12,51,668/-, whereas for this year it is 0.187% only (Assessee having wrongly worked out at a turnover of Rs. 9,38,23,920/- @ 0.36%). So, there is fall of one percent in profits of the assessee.

11. It was further observed by the Ld. CIT(A) that in the preceeding A.Y. despite better results declared by the assessee, a disallowance of Rs. 3,63,826/- was made by the AO and accepted by the assessee. This addition resulted into N.P. rate of 1.52%.

Here, it is pertinent to mention that the accounts of this year were not duly audited. Hence credibility is a concern and despite the fact that the assessee is a company and under obligation to file the return whatever may be the figure of turnover, still it opted not to file the return.

Considering these facts, certainly the addition @ 10% made by the AO is not justified, but, at the same time, the assessee is also under obligation to reconcile the gap in the results declared for the current year and need to explain the failure to get the accounts audited.

Conclusion

12. In totality of the facts mentioned above, we deem it fit to restrict the addition to 1.52% of the turnover declared and accept last year's declared by the assessee itself, i.e. Rs. 12,10,949/- and set off of the self-declared

figure of Rs. 1,49,165/- is to be given. In view of this, grounds raised on merits are partly allowed.

Result

11. In the result, appeal of the assessee is partly allowed.

Order is pronounced in the open court on 29/04/2025

Sd/-

(गगन गोयल)

(GAGAN GOYAL)

लेखा सदस्य / Accountant Member

Sd/-

(नरेन्द्र कुमार)

(NARINDER KUMAR)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 29 /04/2025

*Santosh

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

1. The Appellant- Adworld Communication Pvt. Ltd., Kota.
2. प्रत्यर्थी / The Respondent- DCIT, Central Circle, Kota.
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 1049/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar