

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 94/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2015-16

**Bengal Tiger Line India (Pvt.)
Ltd.,**

No.62, KGN Towers, A Wing,
7th Floor, Ethiraj Salai,
Egmore,
Chennai – 600 105.

PAN: AAACB 1369A

(अपीलार्थी/Appellant)

The Income Tax Officer,

Vs. Corporate Ward 1(2),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S.P. Chidambaram, Advocate &
Ms. Sonali, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 06.06.2024

घोषणा की तारीख/Date of Pronouncement

: 12.06.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1058015908 (1) dated 17.11.2023. The assessment was framed by the Income Tax Officer, Corporate Ward-1(2), Chennai for the

assessment year 2015-16 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 20.11.2017.

2. The first issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of the AO in disallowing the expenses claimed relating to 'Dock and Logistics Expenses' and debited to Profit & Loss account under the head 'other expenses' amounting to Rs.24,07,386/-. For this, assessee has raised various grounds which are argumentative, factual and hence, need not be reproduced.

3. Brief facts are that the AO on perusal of profit & loss account of the assessee noticed that the assessee has claimed 'Dock and Logistics Expenses' amounting to Rs.24,07,386/- under the head 'other expenses'. The AO required the assessee to produce details vide letter dated 15.09.2017. The assessee made a general reply that the assessee company is engaged in providing agency services to its AEs for transshipment of containers from/to the Indian ports to/from the hub ports of Singapore, Colombo, Port-Kelang, etc. The company provides documentation and administration support in relation to vessel traffic and co-ordination with various government authorities in order to obtain necessary clearances, certificates,

approvals in relation to arrival and departure of ever vessel to and fro from the port. These activities are carried on by the assessee company in Chennai, Kolkata, Tuticorin and Cochin through its offices and in Mangalore and Goa through its sub-agents. Thus there is significant coordination involved to ensure seamless arrival and departure of vessels. Hence, according to assessee these are allowable expenses because the expenses are incurred in ordinary course of business and there exists a nexus between expenditure incurred by assessee and nature of business of assessee company. The AO noted that the assessee has not proved the expenses and not able to provide any proof of incurring the same through vouchers, receipts, bills, etc., and accordingly, he disallowed the same. Aggrieved, assessee preferred appeal before CIT(A).

4. The CIT(A)-NFAC also confirmed the action of the AO exactly on identical finding by observing as under:-

“On going through the facts of the case, it is seen that the appellant case was taken for limited scrutiny. Consequent to above statutory notices were issued from time to time to the appellant by the AO. Since the assessee failed to produce the desired details/documents in support of its claim during the assessment proceedings. It was seen that the appellant has not complied and had not filed any submission to substantiate its claim during appellate proceedings and had filed the present appeal merely to file an appeal, since the appellant has nothing to say the proceedings are being completed on the basis of material on record and merit.

Looking into the facts of the ground of appeal, brought on record by the AO and as discussed above, the AO has correctly disallowed and added back Rs.24,07,386/-. The addition made by the AO is justified and therefore, this ground of appellant is dismissed.”

Aggrieved, assessee came in appeal before the Tribunal.

5. We have perused the case records including the assessment order and the order of CIT(A)-NFAC. We have heard Id.Senior DR, Shri P. Sajit Kumar, JCIT as well as the Id.counsel for the assessee Ms.Sonali as well as Shri S.P.Chidambaram, Advocates. The assessee before us contended that it has incurred business expenditure in the nature of dock and logistics charges amounting to Rs.24,07,386/- which are expenses in the nature of port clearance charges, documentation charges, expenses towards obtaining certificates, expenses on obtaining pass renewals for vessels, filing of tax returns and customs clearances. These expenses are incurred in connection with obtaining clearance for the vessels to set sail during each voyage. It was argued that these are expenditure incurred for the very purpose of business but could not produce the evidence. The Id.counsel for the assessee only sought that the matter be restored back to the file of the CIT(A) and assessee is ready to produce evidences in regard to these expenses and services rendered. In the interest of justice, we are inclined to grant one

more opportunity to the assessee to produce these evidences in case they have and hence, we set aside the order of AO and CIT(A)-NFAC on this issue and remand the matter back to the file of the CIT(A) for producing evidences. Accordingly, we set aside this issue to the file of the CIT(A) and this issue of assessee's appeal is allowed for statistical purposes.

6. The next issue in this appeal of assessee is as regards to the order of CIT(A)-NFAC confirming the disallowance of sum of Rs.29,96,938/- being interest written off on loan granted to Director. For this, assessee has raised various grounds, which are argumentative, exhaustive and hence, need not be reproduced.

7. Brief facts are that the assessee company has granted loan of Rs.40,00,000/- to one of its Director of the company Shri B. Sridhar during the financial year 2007-08. The assessee filed copy of Minutes of Board Meeting authorizing the grant of loan and as per the initial terms of arrangement, the aforesaid loan was required to be repaid by end of December, 2007. The Board of Directors extended the time for repayment upto December, 2013 time and again. The interest was accrued on such loan and the interest income in the respective years was booked in the Profit & Loss

account by way of credit to the Profit & Loss Account under the head 'Other incomes' and corresponding debit was made to the interest receivable account in the balance sheet. Accordingly, the interest income was offered to tax from financial years 2007-08 to 2013-14 relevant to assessment years 2008-09 to 2014-15 in aggregate to Rs.29,96,938/-. In assessment year 2015-16, the assessee company made a write off of this amount of Rs.29,96,938/- in its books of accounts and claimed the same as deduction in assessment year 2015-16. The assessee claimed that the company through Board of Directors passed a resolution of approving the waiver of interest income accrued on the loan given to the Director. The assessee claimed that the company has never received this amount and hence, a resolution approving the waiver of such amount was passed. Accordingly, write off was made. The AO during the assessment proceedings noted that the above accrual of interest was offered as income in the earlier assessment years and written off in current assessment year i.e., 2015-16 is only a make_ arrangement and hence, the AO disallowed the write off of Rs.29,96,938/-. Aggrieved, assessee preferred appeal before CIT(A).

8. The CIT(A)-NFAC confirmed the action of the AO by observing as under:-

“Since the assessee failed to produce the desired details/documents in support of its claim during the assessment proceedings. It was seen that the appellant has not complied and had not filed any submission to substantiate its claim during appellate proceedings and had filed the present appeal merely to file an appeal, since the appellant has nothing to say the proceedings are being completed on the basis of material on record and merit.

Looking into the facts of the ground of appeal, brought on record by the AO and as discussed above, the AO has correctly disallowed and added back Rs.29,96,938/-. The addition made by the AO is justified and therefore, this ground of appellant is dismissed.”

Aggrieved, assessee came in appeal before the Tribunal.

9. We have heard rival contentions and gone through facts and circumstances of the case. The Id.counsel for the assessee before us filed complete details in its paper compilation of 109 pages, wherein it is established that the loan was repaid amounting to Rs.10,00,000/- in year ending 31.03.2012 and amount of Rs.30,00,000/- in the year ending 31.03.2014. The Id.counsel for the assessee before us argued that no interest has been received by assessee company and hence, the assessee company has passed a resolution in its board meeting for waiver of this interest and accordingly, the same was claimed as write off. We noted that the CIT(A)-NFAC has not at all given any finding on the claim of write off of this amount of Rs.29,96,938/- but stated that the assessee has not filed desired documents in support of its claim during

assessment proceedings or during appellate proceedings. Now, the assessee has filed these details, therefore we set aside the order of CIT(A)-NFAC and remand this issue back to the file of the CIT(A)-NFAC to adjudicate after verification of facts. In term of the above, we set aside this issue to the file of CIT(A)and accordingly, this issue of assessee's appeal is allowed for statistical purposes.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes..

Order pronounced in the open court on 12th June, 2024 at Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 12th June, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.