

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'F' : NEW DELHI)**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCE)

**ITA NO.7190 /DEL/2018
(ASSESSMENT Year 2012-13)**

M/s. Vikram Urethane Pvt. Ltd.,
C/o Shri Tejmohan Singh, Advocate
527, Sector 10 – D,
Chandigarh.

vs. DCIT, Circle 26 (2),
New Delhi.

(PAN : AAACV4143J)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Tejmohan, Advocate
REVENUE BY : Shri Atiq Ahmed, Senior DR

Date of Hearing : 28.10.2021
Date of Order : 26.11.2021

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Appellant, M/s. Vikram Urethane P. Ltd. (hereinafter referred to as 'the assessee') by filing the present appeal sought to set aside the impugned order dated 13.08.2018 passed by the Commissioner of Income-tax (Appeals)-10, New Delhi on the grounds inter alia that :-

“1. That the Ld. Commissioner of Income Tax (Appeals) has erred in law as well as on facts in upholding the addition of Rs.8,55,000/- for alleged non-deduction of tax on interest on

loan received from the holding company even when the amount did not represent interest but salary and taxes having been duly deducted and as such the upholding of addition is arbitrary and unjustified.

2. That the Ld. Commissioner of Income Tax(Appeals) has further erred in upholding an addition of Rs.5,34,420/- applying the provisions of Section 43B in respect of Excise Duty Payable for alleged non substantiating the claim with supporting documents when in fact the amount stood paid before the filing of return and as such the disallowance upheld is arbitrary and unjustified.

3. That the Ld. Commissioner of Income Tax(Appeals) has further erred in upholding an addition of Rs.1,00,000/- disallowing the financial charges paid to Standard Chartered Bank which is arbitrary and unjustified.

4. That the Ld. Commissioner of Income Tax(Appeals) has further erred in upholding an ad-hoc disallowance of Rs.54,307/- out of total expenses of Rs.5,43,071/- debited under the heads Repairs and maintenance, Vehicle running and maintenance, Power and fuel debited in building maintenance and Power and Fuel debited in water expenses which is arbitrary and unjustified.”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessee company is into the business of manufacturing scouring cakes. During the scrutiny proceedings, Assessing Officer (AO) noticed that it has received a loan of Rs.1,76,04,908/- from its holding company, M/s. IPF Vikram India Ltd.. Assessee was called upon to furnish details of interest paid along with tax deduction thereon and to clarify why an amount of Rs.8,55,000/- having been debited under the head ‘pay and allowances’ in the name of M/s. IPF Vikram India Ltd. be not treated as interest on loan. On filing no reply by the assessee, AO

treated the amount of Rs.8,55,000/- as interest on which no TDS has been made and accordingly disallowed the entire amount of Rs.8,55,000/-. AO also made disallowance of Rs.27,42,831/- u/s 43B of the Income-tax Act, 1961 (for short 'the Act') as no proof of payment has been furnished by the assessee. AO also made addition of Rs.1,00,000/- by way of disallowance of process fees claimed by the assessee being capital in nature. AO also made ad hoc disallowance of Rs.54,307/- out of total expenses of Rs.5,43,071/- debited under the head 'repair & maintenance', 'vehicle & running maintenance account', power & fuel debited in building maintenance account and power & fuel debited in water expenses and thereby framed the assessment at total income of Rs.1,98,82,554/-.

3. Assessee carried the matter before the Id. CIT (A) by way of filing an appeal who has partly allowed the appeal. Feeling aggrieved against the order passed by the Id. CIT (A), the assessee has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

GROUND NO.1

5. Ld. CIT(A) confirmed the addition of Rs.8,55,000/- made by the AO on account of interest payment towards the loan of Rs.1,76,04,908/- availed of by the assessee company from its holding company, M/s. IPF Vikram India Ltd. by returning following findings :-

“5.5 Ground No.1

As regards ground no. 1, the appellant has submitted that Rs.8,55,000/- was not in the nature of interest payment and it was on account of Directors remuneration paid to Mr. Karan Singh. In the remand report, the AO has submitted that on perusal of form 16 issued by IPF Vikram India Ltd., it is noted that nowhere it is mentioned that the said payment was made on behalf of the appellant. It is also seen that the appellant did not issue Form 16 in respect of salary paid to Director. In case, the Directors remuneration was to be paid by the appellant, the same could have been very well paid by the appellant company. The appellant has not been able to rebut the findings of the AO with substantiating documents. Considering the facts of the case and written submission, I do not find merit in the submission of the appellant company and addition of Rs.8,55,000/- is confirmed. Accordingly, the above ground is dismissed.”

6. Perusal of the impugned findings returned by the ld. CIT(A) particularly contained in para 5.3 shows that the ld.CIT (A) decided this issue by calling a remand report. But it is undisputed fact that during remand proceedings, AO has not given adequate opportunity of being heard to the assessee. Consequently, ld. CIT (A) decided the issue without having on record explanation and documents to uphold this addition. So, we are of the considered

view that since no opportunity has been given to the assessee during the remand proceedings, this issue is remanded back to the AO to decide afresh after providing an opportunity of being heard to the assessee. So, ground no.1 is determined in favour of the assessee for statistical purposes.

GROUND NO.2

7. Ld. CIT (A) confirmed the addition of Rs.5,34,420/- made by the AO on the ground that assessee has not substantiated its claim with supporting documents by returning following findings :-

5.6It is submitted by the appellant that the statutory liability were paid before the filing of return of income. The written submission, the documents furnished by the appellant and the remand report have been considered. As regards Excise Duty payable of Rd.5,34,420/-, the appellant has not been able to substantiate its claim with the supporting documents and therefore, the addition of Rs.5,34,420/- is confirmed.....”

8. Aforesaid findings apparently show that the addition has been confirmed without thrashing the facts and law. In other words, findings are cryptic one and it is not discernible as to what Ld. CIT (A) has intended to convey by returning these findings. So, in the interest of justice, this issue is also remanded back to the AO who has also decided this issue without taking on record any document from the assessee by deciding afresh by providing an opportunity of being heard to the assessee. So, ground no.2 is determined in favour of the assessee for statistical purposes.

GROUND NO.3

9. Ld. CIT (A) again confirmed the addition of Rs.1,00,000/- made by the AO on account of loan processing fee by treating the same as capital in nature by returning cryptic finding that, *“The appellant has not been able to revert the finding of the AO. Considering the above, the addition of Rs.1,00,000/- is confirmed.”*

10. Undisputedly, assessee has claimed financial charges of Rs.1,00,000/- having been paid to Standard Chartered Bank for taking loan and treated the same as revenue in nature. We are of the considered view that loan processing charges paid by the assessee for taking loan for business purpose was exclusively and wholly for the purpose of assessee's business and has not created any new assets by incurring such expenses nor any enduring benefits have been accrued to the assessee. So, we are of the considered view that ld. CIT (A) has erred in confirming this addition which is ordered to be deleted. Consequently, ground no.3 is determined in favour of the assessee.

GROUND NO.4

11. AO as well as ld. CIT (A) have made/confirmed ad hoc disallowance of Rs.54,307/- out of the total expenses of Rs.5,43,071/- debited under the head 'repairs & maintenance' etc. by the assessee. We are of the considered view that when audited

financials of the assessee company has been accepted by the Revenue authorities there is no scope of making ad hoc disallowance which are purely based upon conjectures and surmises, hence ordered to be deleted. Consequently, ground no.4 is determined in favour of the assessee.

12. Resultantly, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in open court on this 26th day of November, 2021.

**Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 26th day of November, 2021.
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-10, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**