

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.885/PUN/2022
निर्धारण वर्ष / Assessment Year : 2017-18

Mayur Wines, 1, Gokul Complex, Tambat Lane, Ozar, Tal- Niphad, Nashik- 422303. PAN : AAFFM5516Q	Vs.	NFAC, Delhi.
Appellant		Respondent

Assessee by : Shri Sanket M. Joshi
Revenue by : Shri Ramnath P. Murkunde

Date of hearing : 23.05.2023
Date of pronouncement : 24.05.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM :

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 25.11.2022 for the assessment year 2017-18.

2. Briefly, the facts of the case are that the appellant is a partnership firm engaged in the business of liquor. The Return of Income for the assessment year 2017-18 was filed on 29.10.2017 declaring a total income of Rs.24,72,386/-. Against the said return of income, an intimation u/s 154 of the Income Tax Act, 1961 ('the

Act') was issued disallowing the remuneration paid to the partners of Rs.35,76,830/-. On receipt of the information from the CPC, Bangaluru, a rectification application was filed on 16.02.2019 and the same came to be rejected vide order dated 14.05.2019 passed u/s 154 by the CPC, Bangaluru.

3. Being aggrieved by that order, an appeal was filed before the NFAC, who vide impugned order confirmed the action of the CPC, Bangaluru on the ground that the appellant had failed to upload the partnership deed.

4. Being aggrieved, the appellant is in appeal before us in the present appeal.

5. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the allowability of partner's remuneration u/s 40(b) of the Act in the intimation sent u/s 143(1)(a) of the Act. The CPC, Bangaluru had disallowed the remuneration to the partners merely on the ground that the return of income was not accompanied by the partnership deed. We have carefully gone through the relevant provisions of the Act as well as the Rules, it is nowhere mentioned that in order to allow the claim for deduction of partner's remuneration, the return of income should be accompanied by the partnership deed and in absence of such

requirement under law, this cannot be treated as incorrect claim. Therefore, the CPC, Bangaluru ought not to have disallowed the partner's remunerations while processing the return of income u/s 143(1)(a) of the Act. Therefore, we direct the CPC, Bangaluru to amend the intimation by deleting the addition on account of partner's remuneration of Rs.35,76,830/-.

6. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on this 24th day of May, 2023.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 24th May, 2023.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.