

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK 'SMC' BENCH,
CUTTACK**

BEFORE SHRI N.S SAINI , ACCOUNTANT MEMBER

ITA No. 96/CTK/2016
Assessment Year : 2011-12

Shri Amiya Prasad Mishra, Prop. M/s. Mishra Engineers, Deula Sahi, Tulsipur, Cuttack.	Vs.	ACIT, Circle 2(2), Cuttack
PAN/GIR No. AJMPM 3560 A		
(Appellant)	..	(Respondent)

Assessee by : Shri S.N.Sahu, AR
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 05 /01/ 2017
Date of Pronouncement : 05/01/ 2017

ORDER

This is an appeal filed by the assessee against the order of CIT(A)-Cuttack, dated 19.2.2016, for the assessment year 2011-2012 .

2. In Ground No.1 of the appeal, the grievance of the assessee is that the Id CI(A) erred in confirming the adhoc disallowance @ 20% from the following expenses and making the addition of Rs.1,02,490/- to the income of the assessee:

a)	Travelling expenses	:	Rs. 74,541/-
b)	Vehicle maintenance	:	Rs.1,42,563/-
c)	Printing & stationary	:	Rs.1,81,330/-
d)	General Expenses	:	Rs. 71,420/-
e)	Consultancy charges	:	<u>Rs. 45,6000/-</u>
	Total:		Rs.5,12,454/-

3. I have heard the rival submissions and perused the orders of lower authorities and materials available on record. In the instant case, the Assessing Officer found that the assessee has debited Rs.5,12,454/- in total under the head: (i) travelling expenses, (ii) vehicle maintenance, (iii) printing and stationary, (iv) general expenses and (v) consultancy charges. The Assessing Officer required the assessee to produce the details of such expenses to substantiate the above claim of expenditure. The assessee filed ledger copy of some of the expenses but did not produce bills and vouchers for verification. The assessee stated that the expenses have been incurred wholly for the purpose of business. Since the assessee did not furnish supporting documentary evidences regarding the expenses incurred, the Assessing Officer disallowed 20% out of the above expenses and made an addition of Rs.1,02,490/- to the income of the assessee.

4. On appeal, Id CIT(A) confirmed the action of the Assessing Officer.

5. Before me, Id A.R. of the assessee argued and submitted that the Assessing Officer was not justified in making adhoc disallowance out of genuine business expenditure claimed by the assessee. He relied on the decision of this Bench of the Tribunal in the case of Shri Mahendra Kumar

Saha vs ACIT (ITA No.54/CTK/2015) order dated 23.2.2016, wherein, it was held as under:

".....Further, in this case, regular books of account have been maintained and audited u/s.44AB of the Act. No adverse inference has been drawn by the auditor. Taking the guidance of various judicial pronouncements, we concur with the findings of higher judicial authority that the tax authorities must consider the claims in reasonable and practical manner. The disallowance of petty nature of expenses makes hardly any impact on overall revenue collection, but such disallowance creates a lots of dissatisfaction amongst tax payers. Therefore, considering all these factors and in the interest of justice, we delete the addition of Rs.1,00,000/- sustained by the Id CIT(A)."

6. On the other hand, Id D.R. supported the orders of lower authorities.

7. I find that the Assessing Officer has made 20% of adhoc disallowance out of business expenses claimed by the assessee. He has not pointed out for which specific expenditure claimed by the assessee, the vouchers were not produced before him for verification. In the absence of the same, the disallowance made in a summary manner cannot be sustained in law. Hence, I set aside the orders of lower authorities and vacate the disallowance of Rs.1,02,490/- and allow the ground of appeal of the assessee.

8. In Ground No.2 of the appeal, the grievance of the assessee is that the Id CIT(A) erred in confirming the disallowance of Rs.16,901/- made under the head "donation" by the assessee.

9. I have heard the rival submissions and perused the orders of lower authorities and materials available on record. In the instant case, the

Assessing Officer observed that the assessee has claimed deduction of Rs.16,901/- under the head "donation". He required the assessee to produce details of such donation which could not be produced by the assessee. Therefore, he disallowed the same for not having incurred for the purpose of business and not incidental to the business of the assessee.

10. On appeal before the Id CIT(A), the assessee submitted that the donation of Rs.15,900/- was paid to Smt. Tota Shreelaxmi as she was suffering from cancer. The assessee was approached and requested by M/s Orissa Cricket Association and some of the players to help her from the humanitarian point of view. Since the assessee was working as Consultant Engineer under Orissa Cricket Association, he accepted the request in the greater interest of business. Further, donation of Rs.1001/- was paid to Seikh Bazar durga Puja Committee on the request of local people.

11. After considering the above submission of the assessee, Id CIT(A) confirmed the action of the Assessing Officer on the ground that the expenses claimed are not incidental to the business of the assessee.

12. Before me also, no evidence has been filed by the assessee to show that the expenses claimed are wholly and exclusively incurred for the business purposes of the assessee. Hence, I find no good and justifiable reason to interfere with the order of Id CIT(A), which is hereby confirmed and dismiss this ground of appeal of the assessee.

13. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 05/01/2017 in the presence of parties.

Sd/-

(N.S Saini)

ACCOUNTANT MEMBER

Cuttack; Dated 05/01 /2017
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Shri Amiya Prasad Mishra,
Prop. M/s. Mishra Engineers, Deula Sahi,
Tulsipur, Cuttack.
2. The Respondent. ACIT, Circle 2(2), Cuttack
3. The CIT(A) Cuttack
4. CIT, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

ASST.REGISTRAR,
ITAT, Cuttack