

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ , मुंबई ।

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

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER AND

SHRI PAWAN SINGH, JUDICIAL MEMBER

आयकर अपील सं/ I.TA No. 1063/Mum/2013

(निर्धारण वर्ष / Assessment Year:2007-08

King Kaveri Trading Company, A-19/1, Maitri Park, Sion Trombay Road, Chembur, Mumbai-400 071	बनाम/ Vs.	The DCIT 22(2), Tower No. 6, 4 th Floor, Vashi Rly Station Complex, Vashi, Navi Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAHAFK 4646F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
अपीलार्थी ओर से/ Appellant by:		Shri Shailesh M. Doshi
प्रत्यर्थी की ओर से/ Respondent by:		Shri A. Ramachandran

सुनवाई की तारीख / Date of Hearing :23.11.2015

घोषणा की तारीख /Date of Pronouncement :23.11 .2015

आदेश / ORDER

PER N.K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the Ld. CIT(A)-19, Mumbai dated 7.12.2012 pertaining to Assessment year 2007-08.

2. The sole grievance of the assessee is that the Ld. CIT(A) erred in confirming an adhoc disallowance @ 20% of certain expenses amounting to Rs. 4,87,281/-.

3. The assessee is trading of trailers and trailer parts. The return of income was electronically filed on 17.210.2007 declaring total

income at Rs. 79,00,270/-. The return was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee.

3.1. While scrutinizing the return of income, the Assessing Officer noticed that the assessee has claimed following expenditures in its profit and loss account.

1.	Repairs & Maintenance	85,364/-
2.	Loading/unloading	8,30,129/-
3.	Delivery charges	10,61,900/-
4.	Travelling	14,26,942/-
5.	Sales promotion	6,55,244/-
6.	Office expenses	4,59,013/-
		45,18,592/-

3.2. The AO observed that some of the expenses are incurred in cash and are supported only with self made vouchers. Accordingly, the AO disallowed 20% and added a sum of Rs. 9,03,718/-.

4. The assessee carried the matter before the Ld. CIT(A). It was strongly contended that the AO has failed to pin point any irregularities in incurring of various expenses. After considering the facts and the submissions, the Ld. CIT(A) found that on certain expenses, the assessee has also paid FBT and allowed relief to that extent and confirmed the disallowance at Rs. 4,87,281/-.

5. Aggrieved by which the assessee is before us.

6. The Ld. Counsel for the assessee reiterated what has been stated before the lower authorities. The Ld. Counsel also relied upon

the decision of the Tribunal, Mumbai Bench in the case of Crescent Chemicals in ITA No. 1355/M/2010, Calcutta Bench in the case of Sri Damodar Prasad Agarwal in ITA No. 1363/Kol/2009.

7. Per contra, the Ld. Departmental Representative strongly supported the findings of the lower authorities.

8. We have carefully gone through the orders of the authorities below. The undisputed fact is that the disallowances made by the AO are on adhoc basis. It is also an undisputed fact that the AO has not pointed out any expenditure which is not related to the business of the assessee. The only adverse inference drawn by the AO is that some of the expenses are incurred in cash and are supported by self made voucher. In our considered opinion, these general observations of the AO would not justify the disallowances. No specific defect has been pointed out in the books of accounts maintained by the assessee. Therefore, we do not find any justification in making such adhoc disallowances. Findings of the Ld. CIT(A) is set aside. The AO is directed to delete the addition of Rs. 4,87,281/-.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court at the time of hearing on 23rd November, 2015.

Sd/-

(PAWAN SINGH)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(N.K. BILLAIYA)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 23rd November, 2015

व.नि.स./ Rj , Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार

(Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai