

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ “डी” मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI

सर्वश्री बी.आर.बास्करन, लेखा सदस्य एवं संदीप गोसाई, न्यायिक सदस्य के समक्ष
BEFORE S/SHRI B.R.BASKARAN, ACCOUNTANT MEMBER AND
SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No.2425/Mum/2012
(निर्धारण वर्ष / Assessment Year :2002-03)

M/s Dani Shares and Stocks Pvt Ltd., 12, Oricon House, 14, K Dubash Marg, Kala Ghoda, Fort, Mumbai-400001	बनाम/ Vs.	Income Tax Officer, Ward 4(1)(2), Aayakar Bhavan, M K Road, Mumbai-400020
स्थायी लेखा सं./PAN : AABCG1670N		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by :	Shri Sanjay Parikh
प्रत्यर्थी की ओर से/ Respondent by :	Mrt.Anu K Aggarwal

सुनवाई की तारीख / **Date of Hearing** : **3.12.2015**
घोषणा की तारीख / **Date of Pronouncement** : **3.12.2015**

ORDER

PER B.R.BASKARAN,AM:

The assessee has filed this appeal challenging the order dated 11.01.2012 passed by Ld CIT(A) for assessment year 2002-03 in respect of the following two issues:-

- (a) Disallowance of 10% of foreign travel expenses
- (b) Disallowance of medical expenses incurred on the father of the director.

2. We heard the parties and perused the record. The assessee company is a member of BSE, engaged in the business of share trading, broking and investments. The first issue relates to the disallowance made

out of foreign travel expenses. The assessee claimed a sum of Rs.5,62,090/- as foreign travel expenses. The assessing officer had disallowed entire claim for want of details. During the course of appellate proceedings, the assessee furnished the relevant details and also admitted that a sum of 10% of the expenses may be related to the personal use of the directors. In the remand report, the AO also suggested for disallowance of 10% of the claim. Accordingly the Ld CIT(A) sustained disallowance to the extent of 10% of foreign travel expenses and allowed balance amount of claim.

3. The Ld A.R submitted that the assessee is a company and hence the question of personal expenses does not arise in case of companies. In this regard, the assessee placed reliance on the decisions reported in 86 ITD 135(TM) and 135 ITD 270. However, we notice that the assessee has admitted that 10% of foreign travel expenses as related to the personal expenses of the directors, meaning thereby, the expenses to that extent could not be considered as having laid out for the purposes of business. Hence, we are of the view that the Ld CIT(A) was justified in sustaining the disallowance to the extent of 10% as admitted by the assessee.

4. The next issue relates to the disallowance of medical expenses incurred on the father of the director of the assessee company. The AO disallowed the same and the Ld CIT(A) has also confirmed the same. It was contended that the impugned expenses should be considered as having incurred wholly and exclusively for the purposes of business of the assessee company, since the father of the director has introduced many clients through whom the assessee has earned good amount of brokerage income. He further submitted that the assessee company has not paid any commission income to the father of the director and it has compensated him by undertaking to bear the medical expenses. The Ld A.R also invited our attention to pages 149-150 of the paper book, wherein

a list of persons claimed to have been introduced by the father of the director is placed.

5. On the contrary, the Ld D.R submitted that the father of the director is neither a director nor employee of the assessee company. Further the claim of the assessee that the father of the director has introduced many clients was also not substantiated. Accordingly the Ld D.R submitted that the Ld CIT(A) was justified in confirming the disallowance.

6. Having heard rival contentions on this issue, we are of the view that there is no merit in the contentions of the assessee. It is an admitted fact that the father of the director is neither a director nor an employee of the assessee company. The Id A.R also admitted that the service agreement entered between the assessee and the director does not provide for incurring of medical expenses of the father of the director. Hence, legally there is no obligation on the part of the assessee to incur the impugned medical expenses. The claim of the assessee that the father of the director has introduced many clients was also not substantiated with documentary evidences. Under these set of facts, we are of the view that the Ld CIT(A) was justified in confirming the disallowance by holding that the same was not incurred wholly and exclusively for the purposes of business.

7. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 3rd,Dec,2015.

Sd
(संदीप गोसाईं/SANDEEP GOSAIN)
न्यायिक सदस्य/Judicial Member

sd
(बी.आर.बास्करन/ B.R.BASKARAN)
लेखा सदस्य /Accountant Member

मुंबई Mumbai; दिनांक Dated.. 3rd , Dec,2015

व.नि.स./ **SRL, 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)- concerned
4. आयकर आयुक्त / CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai concerned
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True copy

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai