

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH : KOLKATA

[Before Hon'ble Sri Aby T.Varkey, JM & Dr.Arjun Lal Saini, AM]

I.T.A No.843/Kol/2006

Assessment Year : 2010-11

M/s. Logisys India Ltd. 20B, Abdul Hamid Street, 4 th Floor, Kolkata- 700069. [PAN : AAACL8130B]	-Vs-	D.C.I.T., Circle-3(1), Kolkata
(Appellant)		(Respondent)

For the Appellant	Shri V.N.Purohit, FCA
For the Respondent	Shri G.Mallikarjuna , CIT
Date of Hearing	26.12.2016.
Date of Pronouncement	11.01.2017.

ORDER

Per Aby T.Varkey, JM

This is an appeal preferred by the Assessee against the order of C.I.T(A).-1, Kolkata dated 25.02.2016 for AY 2010-11.

2. The assessee is aggrieved by the order of the Id. CIT(A) in confirming the disallowance of Rs.10,59,544/- out of the following expenses :-

(i) Lorry Hire Charges	:	Rs.8,46,663
(ii)Labour Charges	:	Rs. 94,178
(iii)Collection and delivery charges	:	<u>Rs.1,18,703/-</u>
		<u>Rs.10,59,544/-</u>

3. The brief facts of the case is that the assessee company filed its return of income disclosing total income of Rs.30,87,012/-. Later on the case was selected for scrutiny. The AO notes that the assessee is engaged in the business of transportation and showed the net profit of 3.07%. The AO at page 5 of its order has drawn out a chart wherein he has taken note that the assessee has claimed expenses on account of lorry hire charges at Rs.8.46 crore and labour charges at Rs.94178 and collection and delivery charges at Rs.11870352. Thereafter he asked the assessee to produce the full supporting bills and vouchers in respect to the said expenses claimed. The AO notes that the assessee expressed its inability to produce all the vouchers for verification and so the AO doubted the genuineness of the expenses and he made the disallowance of 10% of the entire amount which comes to Rs.10,59,544/-. Aggrieved the assessee preferred an appeal before the Id. CIT(A), who notes that the lorry hire charges has increased from 45 to 58.55% in the current year and estimation of 10% disallowance by the AO is fair and reasonable and therefore he confirmed the disallowance. Aggrieved the assessee is before us.

4. We have heard the parties and perused the records. We have noted that the assessee is into the business of transportation. The Id. AR brought to our notice that on the three heads of disallowance of 10% made, it is only in respect to the lorry hire charges, the expenses have gone up from 45% last year to 58.55% this year. It was pointed out by the Id. AR that the reason for the steep increase this year was due to the rise in the price of diesel. It was brought to our knowledge that the diesel price was Rs.33.21 per litre in A.Y. 2008-09, whereas in this assessment year it increased to Rs.37.92 which comes to an increase of 12% this year resulted in steep rise in hire charges. The Id. AR brought to our knowledge that the freight and other income of the assessee for A.Y.2007-08 was Rs.63008260/- and for A.Y.2008-09 it increased to Rs.85942154/-which was an increase of 36% from the last year and in A.Y.2009-10 it was Rs.9,69,38,171/- and for A.Y.2010-11 it was Rs.14,45,96,199/- which is 49% increase from the last assessment year. We take note of the figures that has been reflected as aforesaid. The AO has

accepted the income without a murmur and when it came to the expenditure part he has made adhoc disallowance. It is to be kept in mind that if the AO has any doubt in respect to the expenditure claimed, that is in respect of any item wise expenditure claimed, then the AO is free to call for particular bills and examine the genuineness of the claim and disallow if the assessee fails to produce the bills/vouchers supporting the specific item wise expenditure. In the instant case the assessee has brought to the knowledge of the AO that as per the order of AO if the full bills and vouchers need to be brought before the AO, the assessee will have to bring truck loads of bills and vouchers. The ld. AR pointed out before us that he requested the AO to pin point any defects if any from the books produced and requested the AO to call for any bills/voucher of any expenditure on which AO has doubts regarding the genuineness of the claim of expenditure so that the assessee could produce it. However the AO insisted that the assessee produce all the bills and vouchers and because of time constraint and lots of logistics involved, the AR expressed the difficulty to produce the entire bills. We take note that the assessee has been in the business of transportation for a very long time and freight and other income has increased steadily from A.Y.2007-08 onwards. From the last year the increase was 49%, when the income has been accepted the expenditure if doubted without rejecting the books of accounts and without pin pointing any bills item wise defects, the AO ought not to have made adhoc disallowances which amounts to arbitrary exercise of power and we are inclined to delete the addition. We order accordingly.

5. In the result the appeal of the assessee is allowed.

Order pronounced in the Court on 11 .01.2017.

Sd/-
[Dr.A.L.Saini]
Accountant Member
Dated : 11.01.2017.

Sd/-
[Aby T.Varkey]
Judicial Member

[RG PS]

Copy of the order forwarded to:

- 1.M/s. Logisys India Limited, 20B, Abdul Hamid Street, 4th Floor, Kolkata-700069.
2. D.C.I.T.-Circle-3 (1), Kolkata. .
3. CIT(A) –1, Kolkata. 4. C.I.T.-1, Kolkata
5. CIT(DR), Kolkata Benches, Kolkata.

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By Order

Asstt.Registrar, ITAT, Kolkata Benches