

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "E" MUMBAI**

**BEFORE SHRI MAHAVIR SINGH (JUDICIAL MEMBER) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 2865/MUM/2014  
Assessment Year: 2007-08**

Smt. Shobha Shah  
Mohanlal Jain & Co. CA  
10 CS House, Gr. Floor  
Dr. C.H. Street, Marine Lines  
Mumbai - 400002

Vs. ITO 25(2)(3)  
Bandra Kurla Complex  
Bandra (E)  
Mumbai

**PAN No. AZYPS5845C**

**(Appellant)**

**(Respondent)**

Assessee by:  
Revenue by:

Mr. Navin Mishra, AR  
Mr. K Ravi Kiran, DR

Date of Hearing : 16/05/2017  
Date of pronouncement: 31/05/2017

**ORDER**

**PER N.K. PRADHAN, AM**

This is an appeal filed by the assessee. The relevant assessment year is 2007-08. The appeal is directed against the order of the Commissioner (Appeals) – 35, Mumbai and arises out of the order u/s 143(3) of the Income Tax Act, 1961 (the 'Act').

2. The grounds of appeal filed by the assessee read as under:
- i. On the facts and in the circumstances of the case and in law the Hon'ble CIT(A) erred in upholding the addition of Rs. 7,76,640/- made to the returned income by the Ld. A.O. by treating the genuine labour charges paid for execution of the work as non-genuine and the reasons assigned for doing so are wrong and contrary to the provision of Income Tax Act and rules made there under.
  - ii. On the facts and in the circumstances of the case and in law the Hon'ble CIT(A) erred in upholding the addition of Rs. 4,59,478/- made

to the returned income by Ld. A.O. by holding that 50% of the business promotion expenses of Rs. 9,18,956/- are non genuine and the reasons assigned for doing so are wrong and contrary to the provision of Income Tax Act and rules made there under.

3. Briefly stated, the facts of the case are that the assessee filed her return of income for the A.Y. 2007-08 on 26.10.2007 declaring total income of Rs.3,50,000/-. The Assessing Officer (A.O.) observed that the assessee had debited Rs.1,16,87,376/- as labour charges in the profit and loss account. He issued notices u/s 133(6) to several parties. The A.O. observed that in the case of M/s Kiran Enterprises, the notice u/s 133(6) was returned back unserved. He asked the assessee to file the new address, PAN, copy of return of income, bank statement reflecting the transactions. As the assessee failed to file the above details, the A.O. disallowed the labour charges of Rs.7,76,640/- claimed to have been paid to M/s Kiran Enterprises.

3.1. The A.O. also observed that the assessee had debited expenses of Rs.9,18,955/- under the head 'business promotion expenses'. He asked the assessee during the course of assessment proceedings to file details of such expenses and also to produce the documentary evidence for the same. As the assessee failed to file the above details, the A.O. disallowed 50% of the said expenses which amounts to Rs.4,59,478/-.

4. Aggrieved by the order of the A.O., the assessee filed an appeal before the Ld. CIT(A). We find that the Ld. CIT(A) sustained the disallowance of Rs.7,76,640/- made by the A.O. on the ground that in the ledger confirmation as produced by the assessee for the financial year 2006-07, not a single penny has been shown as paid to them. The Ld. CIT(A) has further observed that if the claim of the assessee is

true and correct with regard to M/s Kiran Enterprises being a petty/unorganized worker, then it is highly impossible to rely that the said party has not been paid throughout the year. Therefore, the Ld. CIT(A) upheld the disallowance of Rs.7,76,640/- on the remark that the ledger account furnished by the assessee did not constitute any genuineness of transaction.

4.1. In respect of the addition of Rs.4,59,478/- made by the A.O., the Ld. CIT(A) observed that the assessee had not produced any document other than self-made vouchers to claim the expenditure. Therefore, she confirmed the disallowance of Rs.4,59,478/- made by the A.O.

5. Before us, the Ld. Counsel of the assessee files a copy of the trading account, profit and loss account, capital account and balance sheet of the proprietary concern of the assessee i.e. KSM Print and Packaging.

6. The Ld. DR on the other hand relies on the order of the Ld. CIT(A).

7. We have heard the rival submissions and perused the relevant material on record. It is found that the A.O. has mentioned at para 3 of the assessment order that the assessee has filed computation of income, profit and loss account, balance sheet, capital account, audit report u/s 44AB and other details as called for. Also we notice that the A.O. has mentioned that the assessee failed to file the details in respect of labour charges of Rs.7,76,640/- paid to M/s Kiran Enterprises and evidence regarding business promotion expenses of Rs.9,18,955/-. In view of the facts and circumstances of the case, we

direct the A.O. to restrict the disallowance to 25% of labour charges of Rs.7,76,640/- and business promotion expenses of Rs.9,18,955/-.

8. In the result, the appeal is partly allowed.

**Order pronounced in the open Court on 31/05/2017**

Sd/-

(MAHAVIR SINGH)  
JUDICIAL MEMBER

Sd/-

(N.K. PRADHAN)  
ACCOUNTANT MEMBER

Mumbai: 31/05/2017

Dated:

*Rahul Sharma, Sr. P.S.*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**