

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
KOLKATA**

Before : **Shri M.Balaganesh, Accountant Member and
Shri S.S.Viswanethra Ravi, Judicial Member**

ITA No. 976/Kol/2016
A.Y 2010-11

**Anand Trans
Logistics Pvt. Ltd**
PAN: AAHCA 6072E
[Appellant]

Vs. D.C.I.T., Cir-4, Kolkata

[Respondent]

Appellant by : None appeared/Adj. Petition not filed for the assessee
Respondent by : Shri Amitava Bhattacharjee, JCIT, Id.DR

Date of Hearing : 29-11-2016
Date of Pronouncement : 31-01-2017

ORDER

Shri S.S.Viswanethra Ravi, JM:

This appeal by the Assessee is directed against the order dated 17-03-2016 passed by the Commissioner of Income Tax(Appeals), 16, Kolkata for the assessment year 2010-11.

2. In spite of service of notice neither assessee nor representing it any one appeared before the Tribunal nor there was any adjournment petition on this day hearing i.e. on 29-11-2016. So, we proceeded to dispose off the appeal after hearing the Id.DR and perusing the material available on record.

3. The only issue in this appeal is to be decided as to whether the CIT-A is justified in confirming the addition made by the AO on account of treating the bank processing fee as capital in nature in the facts and circumstances of the case.

4. The assessee is a company and engaged in the business of transportation & lorry operations. The assessee filed its return of income for the A.Y under consideration on 13-10-2010 showing a total income of

Rs.42,04,680/- . Under scrutiny, notices u/s. 143(2) and 142(1) of the Act were issued. In response to which, the assessee appeared and produced relevant documents to the AO. On perusal of records, the AO found that the assessee claimed an amount of Rs. 2,13,262/- as loan processing charges. The assessee submitted before him that such expenditure were incurred during course of obtaining loan for purchasing lorries. The AO was of the view that the assessee incurred such expenditure before purchase of the lorries were put to use and it should have been capitalized as per provisions of the Act and to that effect an order u/s. 143(3) of the Act was passed at total income of Rs.44,17,942/- by adding an amount of Rs. 2,13,262/- on account of loan processing charges.

5. The CIT-A confirmed the addition as made by the AO as the assessee could not file any evidence showing that said expenditure incurred for the purpose of business and genuineness of such payment.

6. Before us the Id.DR submits that no depreciation was given and the assessee did not mention the same for seeking depreciation in its return of income. He also submits that assessee failed to produce any supporting evidence before the CIT-A and referred to page 2 of the order of the CIT-A.

7. Heard the Id.DR and perused the material available on record. It is evident from the record that the assessee has taken over the business under the name and style as Anand Transport Corporation a proprietary concern as a going concern along with all its assets and liabilities including TDS credit from 2.5.2009. It was stated by the assessee before the CIT-A that the AO wrongly disallowed the impugned amount treating the same has been paid towards processing fee for purchase of lorries. It is noticed from the records that the assessee has denied the same in making such statement before AO and we find that the assessee submitted that this amount was paid towards loan processing charges for obtaining cash credit loan for working capital of assessee and contended that this is an allowable deduction. In our opinion,

whenever the assessee claims deductions, the burden lies on the assessee to bring all material facts on record in support of claim. But, in the present case, according to AO the Id.AR of assessee submitted that it incurred towards loan processing charges, whereas before the CIT-A the assessee denied the same and the CIT-A found that the assessee failed to produce any evidence in substantiating its claim at least with regard to the facts that the said expenses incurred towards payment of loan processing charges for cash credit loan for working capital as stated and could be seen from grounds of appeal raised before CIT-A. We find that, as rightly pointed out by the CIT-A that the assessee could not produce any evidence in support of its claim. Therefore, the order of CIT-A is justified. But, however, taking into consideration the facts and circumstances of the case, we deem it fit and proper to direct the assessee to substantiate its claim by filing relevant evidences and restore the issue to the file of AO for verification of the same and to pass an order in accordance with law. Accordingly, the sole ground raised by the assessee is allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 31-01-2017

Sd/-
M. Balaganesh
Accountant Member

Sd/-
S.S.Viswanethra Ravi
Judicial Member

Dated 31-01-2017

Copy of the order forwarded to:

1. Appellant/Assessee: M/s. Anand Trans Logistics Private Limited 8E, Rajshree Building, 6 Hastings Park Road, Kol-27.
2. Respondent/Department : The DCIT, Cir-4, Kolkata.
3. CIT,
4. CIT(A),
5. DR, Kolkata Benches, Kolkata

****PP/SPS** [True Copy] By Order Asstt. Registrar