

IN THE INCOME TAX APPELLATE TRIBUNAL
“H” Bench, Mumbai
Before Shri B.R. Baskaran (AM) & Shri Ravish Sood(JM)
I.T.A. No. 4386/Mum/2016 (Assessment Year 2010-11)

Shri Mayur Suchak 501, Neelyog Square Opp. Railway Station Ghatkopar East Mumbai-400 077. PAN : ACRPS5157M (Appellant)	Vs.	DCIT CC-1 6 th Floor Room No. 10 Ashar I.T. Park Wagle Ind. Estate Thane (W)-400 0604. (Respondent)
--	-----	--

Assessee by	Shri Rajiv Khandelwal
Department by	Shri M.C. Omi Ningshen
Date of Hearing	3.8.2017
Date of Pronouncement	27.9.2017

ORDER

Per B.R. Baskaran (AM) :-

The appeal filed by the assessee is directed against the order dated 25-04-2015 passed by Ld CIT(A)-13, Pune and it relates to the assessment year 2010-11. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the addition ore various allowances made by the AO while computing income under the head Salary.

2. The revenue carried out search and seizure operations u/s 132 of the Act in the hands of assessee’s group. Consequently, the present assessment was completed u/s 143(3) r.w.s. 153A of the Act. The AO noticed that the assessee has drawn salary from its group concerns. The AO further noticed that the assessee has received various types of allowances and claimed that they have been fully spent on the basis of self declaration. In the absence of any supporting evidence to show that they have been fully incurred, the AO did not allow deduction and accordingly brought to tax aggregate allowances of

Rs.15,49,800/-. The Ld CIT(A) also confirmed the same and hence the assessee has filed this appeal.

3. The Ld A.R submitted that the assessee has actually incurred expenses and since the employer companies allowed the claim on the basis of self declarations, the assessee did not preserve the relevant vouchers. He submitted that the assessee has actually incurred the expenses and accordingly prayed that the said allowances be deducted. He submitted that these are in the nature of reimbursement of expenses only. On the contrary, the Ld D.R submitted that the tax authorities have disallowed the claim, since the assessee has failed to prove that these allowances were actually spent in the performance of duties of office.

4. We heard the parties and peruse the record. The provisions of sec. 10(14) prescribes for deduction of expenses actually incurred in performance of the duties of an office, if any special allowance is given to an employee. Accordingly the Ld CIT(A) has taken the view that the deduction claimed by the assessee cannot be allowed in the absence of evidences for incurring expenses. However, the case of the assessee is that he has actually spent the allowances in performance of the duties and since the employer companies were granting payments on the basis of self declaration, he did not preserve the bills.

5. On a consideration of rival submissions, we are of the view that the disallowance of entire amount of claim does not appear to be fair, since the employer company was paying allowances on the basis of self declaration. Hence we are of the view that the deduction may be allowed on the basis estimate made on rational basis.

- (a) Medical allowance – Rs.15,000/-:- This allowance is in the nature of perquisite and hence we are of the view that the same should be taxed. Accordingly no deduction is allowable against this allowance.

- (b) Professional Journal – Rs.12,000/-. We are of the view that an effective employee usually subscribes magazines and journals to improve his knowledge. Accordingly we are of the view that the expenditure incurred by the assessee may be estimated at 75% and be allowed.
 - (c) Uniform Allowance – Rs.96,000/-. This expenditure might have also been spent. However, in the absence of supporting vouchers, 50% of allowance may be treated as having been incurred and be allowed as expenses.
 - (d) Research Allowance – Rs.14,400/-. In the absence of nature of expenses, 25% of allowance may be treated as having been incurred and allowed as expenses.
 - (e) Helper Allowance – Rs.3,50,400/-. The possibility of incurring expenses on servants is more and hence 75% of the allowance may be treated as having been incurred and allowed as expenses.
 - (f) Training Allowance – Rs.12,000/-. In our view, no deduction can be allowed against this allowance.
 - (g) Vehicle Allowance – Rs.2,66,400/-. Considering the status of the assessee, 75% of the allowance may be treated as having been incurred and allowed as expenses.
 - (h) Telephone allowance – Considering the status of the assessee, 75% of the allowance may be treated as having been incurred and allowed as expenses.
 - (i) Other allowances – Rs.6,24,000/-. Since the assessee has failed to furnish details thereof, we are of the view that 25% thereof may be treated as having been incurred and allowed as expenses.
6. In our view, the above said estimates would meet the ends of justice and we order accordingly.

7. In the result, the appeal of the assessee is partly allowed.

Order has been pronounced in the Court on 27.9.2017.

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 27/9/2017

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//

PS

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai