

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "E", MUMBAI

Before Shri P K Bansal, Vice President &
Shri Pawan Singh, Judicial Member

ITA No.1218 /Mum/2016
Assessment Year : 2011-12

Tamarind Tours P Ltd 503, Oracle Point, 3 Guru Nanak Road, Opp Bandra Station, Bandra (W), Mumbai 400 050 PAN AACCT4974D (Appellant)	Vs.	DCIT 9(3) Mumbai (Respondent)
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Appellant By : Shri Rakesh Mohan
Respondent By : Shri V Justin

Date of Hearing : 31.10.2017	Date of Pronouncement : 13.11.2017
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ORDER

Per P K Bansal, Vice-President:

This appeal has been filed by the assessee against the order of the CIT(A)-21, Mumbai, dated 19.01.2016, for A.Y. 2011-12. The only ground raised by the assessee reads as under :

"On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in confirming the action of A.O. in treating the brochure expenses of ₹.15,11,055 as bogus and disallowing the same. The appellant prays that the said expenses being genuine in nature ought to be allowed and consequently the disallowance of ₹ 15,11,055 may kindly be deleted."

2. We have heard the rival submissions and have carefully considered the same along with the orders of the authorities below. We noted that in this case, the Assessing Officer made addition of ₹ 15,11,055/- treating brochure expenses incurred by the assessee to be bogus. The facts relating to this case are that the Assessing Officer was informed by DDIT (Inv.) that during the course of survey conducted on one Shri Prakash Madia, on 26.07.2010, it was accepted by him that he was providing accommodation bills. It was found from the bank statement of the accounts held by the bogus entities managed by Shri Prakash Madia that the assessee had made payments to bogus entities as mentioned below:

Sr. No	Entity	A.Y	Date	Amount in Rs.
1	M/s. Deep Enterprises	2011-12	12.04.2010	3,62,700
2	M/s. Tulsiyani Trading Pvt. Ltd.	2010-11	22.03.2010	12,87,000
3	M/s. Tulsiyani Trading Pvt. Ltd.	2011-12	07.04.2010	12,75,300

The Assessing Officer when countered the assessee, it submitted a copy of ledger account of Tulsiyani Trading Pvt. Ltd., and stated that the expenses has been incurred on account of the brochure cost. The Assessing Officer was not satisfied with the explanation of the assessee and, therefore, treated the said expenses as bogus and made addition of ₹ 15,11,055/- during the impugned assessment year but no addition was made in A.Y. 2010-11 in

respect of the sum of ₹.12,87,000/-. On appeal, the CIT(A) confirmed the action of the Assessing Officer observing as under:-

"In the present case, the entities from whom the brochure is claimed to be purchased has been found to have confirmed having given bogus bills, The statement recorded and incriminating documents found have not been disproved by the appellant. The appellant is not a trader who can claim that if the purchases are bogus, so must be the sales of the same items. The invoices in respect of the impugned purchases are not genuine as is noted from the fact that they do not have genuine phone numbers; they are dated in December 2009 whereas the expenses are booked in AY 2010-11 and also in AY 2011-12; the amounts booked as expenses are not correlated to the amounts mentioned in the invoices; the description of the brochures in the impugned four invoices are identical and do not indicate the exact nature of work as is seen in invoices of other parties. I have no hesitation in holding that the claim of purchases of Rs 15,11,055/- from TTPL is bogus. The disallowance made by the assessing officer is confirmed. The appeal is dismissed."

Aggrieved, the assessee is in appeal before us.

3. We noted that it is a fact that the assessee has incurred these expenses during the assessment year 2010-11 also and the cheque was issued in favour of the same party M/s. Tulsiyani Trading Pvt. Ltd., but no disallowance during the said assessment year has been made by the Assessing Officer, which is apparent from the copy of the assessment order available at pages 51 to 62 of the paper-book, on which the learned AR has vehemently relied. Since the facts involved in this year are not different from the A.Y. 2010-11, we, therefore, following the rule of consistency delete the said disallowance.

4. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 13th day of November, 2017.

Sd/-

(Pawan Singh)

JUDICIAL MEMBER

Mumbai; Dated: 13th November, 2017

SA

Sd/-

(P K Bansal)

VICE-PRESIDENT

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai
4. The CIT
5. DR, 'E' Bench, ITAT, Mumbai

BY ORDER,

#True Copy #

Assistant Registrar
Income Tax Appellate Tribunal, Mumbai