

आयकर अपीलिय अधीकरण, न्यायपीठ – “A” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “A” KOLKATA*

Before **Shri Veeravalli Durga Rao, Judicial Member** and
Shri Waseem Ahmed, Accountant Member

ITA No.1333/Kol/2016
Assessment Year :2005-06

Chatterjee Management Services Pvt. Ltd., 9B, Wood Street, 3 rd Floor, Kolkata-700016 [PAN No.AABCC 4005 D]	V/s.	DCIT, Circ,e-8, Kolkata
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri A.K. Tibrewl, FCA
प्रत्यर्थी की ओर से/By Respondent	Shri R.P. Nag, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	14-12-2017
घोषणा की तारीख/Date of Pronouncement	15-12-2017

आदेश /O R D E R

PER Veravalli Durga Rao, Judicial Member:-

This appeal filed by the assessee is directed against the order passed by of Commissioner of Income Tax (Appeals)-15, Kolkata in appeal No.179/CIT(A)-15/15-16/Cir-8/R&T/Kol dated 21.03.2016.

2. Facts in brief are that assessee is in the business of consultancy services, filed return of income declaring total loss at ₹2,35,95,212/-. The return of income filed by assessee was processed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') after following due procedure assessment is completed u/s. 143(3) of the Act.

3. During the course of assessment proceedings, the Assessing Officer has observed that assessee has claimed travel and conveyance expenses of ₹20,59,268/- includes a sum of ₹7,23,054/- is expense incurred for the director. The assessee has not filed any bill & vouchers etc. The AO of the opinion that above expenses are personal in nature in the absence of details 20% of ₹7,23,054/- i.e. ₹1,44,620/- being disallowed.

4. On appeal before Ld. CIT(A) the Ld. CIT(A) has confirmed the order of AO.

5. Before us Ld. counsel for the assessee has submitted that all the bills and vouchers file before AO without examining the simply the AO has disallowed 20% of the expense incurred by the assessee which are for the purpose of business and same is confirmed by Ld. CIT(A) without any basis. Ld. DR has submitted that no details were filed before the AO even before Ld. CIT(A). He strongly supported the order passed by Authorities Below.

6. We have heard both the parties and perused the record and gone through the order of Authorities Below. We find that assessee has incurred conveyance expense of ₹7,23,054/- and before AO assessee is not able to substantiate that these expenses are incurred fully for the purpose of business. Therefore, the AO has disallowed 20% of the expense incurred by assessee by considering it as personal expense. Ld. CIT(A) confirmed the order of AO subsequently. We find that by taking into consideration of entire facts and circumstance of the case and in the interest of justice the disallowance made by AO is higher side under the same is scaled down to 10%. Accordingly, we set aside the order passed by Ld. CIT(A). The ground of appeal is allowed partly. AO is directed accordingly.

7. Next ground relates to office expense.

8. In the assessment order, the AO has observed that assessee has incurred a sum of ₹17,00,719/- towards office management as against the expense of ₹6,00,105/- incurred in preceding previous year which is approximately three times where the consultancy fee received has been increased only 60% from the preceding year. The assessee has not submitted any details or cogent bills. In the absence of details, the AO of the opinion that the entire expense incurred by assessee cannot be considered for the purpose of assessee's business. Therefore, he is disallowed 10% of total expense of ₹17,00,719/- is being disallowed i.e. ₹1,70,172- being in personal nature.

9. An appeal before Ld. CIT(A) confirmed the order of AO

10. Before us Ld. counsel for assessee has submitted that so far as the order to consider the assessee has received a fee which is 60% more than the earlier year. Therefore the assessee has to incur more expense to increase the business of assessee. This fact is not disputed by the AO. The case of assessee before AO is that some of the expense must have incurred for personal purpose and therefore he has disallowed 10% of the expense incurred submitted that entire expense by the assessee are related to only business of assessee and same may be allowed.

On the other hand, Ld. DR has submitted that has not filed any details before AO even before Ld. CIT(A). Therefore, he confirmed the order of AO.

11. We have heard both the sides and gone through facts and circumstances of the case. We find that assessee had incurred an expense for the purpose of office expense which is connected with the business of assessee and there is increase of consultancy fee received is more than 60% in this year under consideration comparatively earlier year. The case of the Assessing Officer is that assessee has not filed any details in respect of expense incurred by the assessee. Therefore, he is of the opinion that there is

possibility of incurring personal expense. Therefore it is disallowe 10% of the total expense incurred by the assessee and same is confirmed by Ld. CIT(A). We have considered the facts and circumstances and we are of the opinion that disallowance made by the AO is higher side. Therefore, we scale down the disallowance made by AO from 10% to 5%. In view of the above, we set aside the order passed by Ld. CIT(A). The ground raised by assessee is partly allowed. AO is directed accordingly.

12. In the result, assessee's appeal stands allowed partly.

Order pronounced in the open court 15/12/2017

Sd/-
(Waseem Ahmed)
(Accountant Member)
Kolkata,

Sd/-
(Veeravalli Durga Rao)
(Judicial Member)

*Dkp, Sr.P.S

दिनांक:- 15/12/2017 कोलकाता ।

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Chatterjee Management Services Pvt. Ltd. 9B, Wood St. 3rd Fl. Kol-16
2. प्रत्यर्थी/Respondent-DCIT, Cir-8, Kolkata
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary, Head of
Office/DDO
आयकर अपीलीय अधिकरण,
कोलकाता ।