

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'बी' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“ B ” BENCH, AHMEDABAD

BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER And
SHRI, MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.763/Ahd/2015
(निर्धारण वर्ष / Assessment Year : 2011-12)

Shri Rameshwar Mulji Jogi, Prop. M/s. Rameshwar Transport Company, 7, Minaxi Park Society, CTM Road, Amraiwadi, Ahmedabad – 380 026	बनाम/ Vs.	ACIT(OSD), Circle – 9, Pratyaksh Kar Bhavan, Ambawadi, Ahmedabad – 380 015
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AATPJ 9116 H		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Smt. Kritesh Patel, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri Mudit Nagpal, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	22/12/2017
घोषणा की तारीख /Date of Pronouncement	26/12/2017

आदेश / O R D E R

PER MANISH BORAD, ACCOUNTANT MEMBER:

This appeal by assessee pertaining to assessment year 2011-12 is directed against the order of Learned Commissioner of Income Tax (Appeals)-6, Ahmedabad dated 04.03.2015, arising out of order u/s.143(3) of the Income Tax Act (hereinafter referred to as, 'Act'), dated 29.01.2014, framed by ACIT(OSD) Circle-9, Ahmedabad.

2. The assessee has raised eight grounds of appeal but the sole grievance involved therein against the order of ld. CIT(A) is for

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sustaining the disallowance of 15% of vehicle repairing expenses incurred by the assessee.

3. Briefly stated facts as culled out from the records are that the assessee is an individual engaged in the transportation business. E- return of income declaring total income of Rs.20,74,690/- was filed on 29.09.2011. The case selected for scrutiny and a notice u/s. 143(2), 142(1) of the Act was duly served upon the assessee. Ld. AO completed assessment after making disallowance of Rs.70,000/- u/s.40A(3) of the Act and also disallowance of 25% of the vehicle repairing expenses of Rs.78,69,771/- for lack of necessary documents and inability of the assessee to prove the expenditure and thereby making disallowance of Rs.19,67,443/-. Accordingly, after making additions/disallowances of Rs.20,37,443/- income assessed at Rs.41,12,133/-.

4. Aggrieved assessee before appeal before Id. CIT(A) against the disallowance of Rs.19,67,443/- but partly succeeded as Id. CIT(A) sustained disallowance @ 15% as against 25% made by the Assessing Officer. Now the assessee is in appeal against the order of Id. CIT(A) before the Tribunal for the alleged sustaining of disallowance @ 15% of vehicle repairing expenses.

5. Ld. Counsel for the assessee submitted that the books of accounts are audited u/s.44AB of the Act, percentage of vehicle repairing expenses in terms of total sales has declined to 4.25% as against 6.78% in the immediately proceeding financial year. He further contended that Id. AO

has merely made an ad hoc disallowance without pointing out any specific error. On the other hand, Id. Departmental Representative vehemently argued supporting the order of lower authorities.

6. We have heard the rival contentions and perused the records placed before us. Sole issue involved in this appeal relates to sustaining of disallowance @15% of vehicle repairing expenses by Id. CIT(A). We observe that the total vehicle expenses incurred at 78.69 lacs is 4.25% of the total turnover of Rs.1853 lacs. In the preceding two years the percentage of vehicle repairing expenses was 7.91% and 6.78% of the total sales for financial year 2008-09 and financial year 2009-10 respectively. It is true that total percentage of the expenditure has reduced. It is also not disputed that books of accounts are regularly audited and they are not being rejected by the assessing officer for computing income of the assessee.

7. However, from perusal of the assessment order we find that when the information was culled for the justification of vehicle repairing expenses, assessee merely submitted self made voucher and thereafter, even been after providing sufficient opportunity, assessee was unable to furnish the remaining details as regards the supporting bills and location at which expenses were made. It is also accepted by the assessee that the impugned expenditure were not well supported by proper bills and most of the payments were made in cash.

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8. We therefore in the given facts and circumstances of the case and overall looking to the type of expenditure, nature of business carried out by the assessee and proceedings carried out for the lower authorities are of the view that disallowance of 10% of the total vehicle expenditure will meet the end of justice. We accordingly sustained disallowance of Rs.7,86,988/- and partly allow the appeal of the assessee.

9. In the result, appeal filed by the assessee is partly allowed.

This Order pronounced in Open Court on	26/12/2017
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Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Ahmedabad; Dated 26/12/2017

Priti Yadav, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-3, Rajkot
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad