

**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.467/CTK/2015
Assessment Year : 2010-2011

M/s Kasi Sales & Services Pvt Ltd., Plot No.220, Sec-A, Zone-B, Mancheswar Industrial Estate, Bhubaneswar.	Vs.	ACIT, Circle 2(1), Bhubaneswar
PAN/GIR No. AABCK 3041 K		
(Appellant)	..	(Respondent)

Assessee by : None

Revenue by : Shri Suvendu Dutta, DR

Date of Hearing : 26/07/ 2017

Date of Pronouncement : 27 /07/ 2017

ORDER

Per N.S.Saini, AM

This is an appeal filed by the assessee against the order of CIT(A)-1, Bhubaneswar, dated 14.9.2015, for the assessment year 2010-2011.

2. The sole issue involved in this appeal is that the Id CIT(A) erred in confirming the order of the Assessing Officer levying penalty u/s.271(1)(c) of the Act for Rs.69,820/-.

3. The brief facts of the case are that the Assessing Officer while making the assessment made disallowance of Rs.91,410/- under the head "miscellaneous expenses" on the ground that the assessee has not satisfactorily explained the expenses. Further, disallowance of Rs.35,761/- under the head "club expenses" was made on the ground that expenses are personal in nature and not business expenses of the assessee. Further, disallowance of Rs.43,717/- was made out of business promotion expenses @ 20% of the total expenses of Rs.2,18,587/- claimed by the assessee on the ground that it is not wholly spent for business promotion.

4. Thereafter, the Assessing Officer levied penalty u/s.271(1)(c) of the Act of Rs.69,820/- on the ground of furnishing inaccurate particulars of income by the assessee.

5. On appeal, the CIT(A) confirmed the action of the Assessing Officer.

6. Being aggrieved by the said order of the CIT(A), the assessee is in appeal before us.

7. Ld A.R. of the assessee has filed an adjournment application. The Bench finding the reasons for seeking adjournment as not plausible one, rejected the adjournment application and the appeal was disposed of after hearing Id D.R. and on the basis of materials available on record.

8. Ld D.R. supported the orders of lower authorities.

9. We have heard Id D.R., perused the orders of lower authorities and materials available on record. In the instant case, the Assessing Officer has made disallowance out of expenses claimed by the assessee under the head "miscellaneous expenses" of Rs.91,410/- on the ground that it was not satisfactorily explained by the assessee. He made disallowance out of club expenses on the ground that it was personal expenses and not business expenses of the assessee. Further, disallowance of Rs.43,717/- out of business promotion expenses was made being 20% total expenses of Rs.2,18,587/- on the ground that it is wholly spent for business of the assessee. We find that disallowances of the expenses have been made by the Assessing Officer either on estimate basis or on the ground that the assessee could not prove that they were incurred wholly for the business of the assessee. There is no finding by the Assessing Officer in his order that the expenses claimed by the assessee are not genuine or bogus. The disallowances have been made only on the ground that the assessee could not satisfactorily explained the same. In the above facts and circumstances of the case, we are of the considered view that as there is no finding by the Assessing Officer that the expenses claimed by the assessee are either bogus or inflated, no penalty under section 271(1)(c) of the At can be imposed on the assessee for furnishing inaccurate particulars of his income. We, therefore, set aside the orders of lower authorities and delete the levy of penalty of Rs.69,820/- under section 271(1)(c) of the Act and allow the ground of appeal of the assessee.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 27 /07/2017 in the presence of parties.

Sd/-

sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 27 /07/2017
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant: M/s Kasi Sales & Services Pvt Ltd., Plot No.220, Sec-A, Zone-B, Mancheswar Industrial Estate, Bhubaneswar.
2. The Respondent. ACIT 2(1), Bhubaneswar.
3. The CIT(A)-1, Bhubaneswar.
4. Pr.CIT-1, Bhubaneswar.
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack