



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

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

ITA No. 76/Rpr/2012
Assessment Year : 2005-2006

M/s.Shree Radhe Industries, Popular Market, Gandhi Bag, Nagpur-440001.	Vs.	ACIT, Circle 1(1), Bilaspur.
PAN/GIR No.		
(Appellant)	..	(Respondent)

Assessee by : Shri R.K.Ghaneniwala, AR
Revenue by : Shri Sanjay Kumar, DR

Date of Hearing : 08/01/ 2018
Date of Pronouncement : 11 /01/ 2018

ORDER

Per Pavan Kumar Gadale, JM

This is an appeal filed by the assessee against the order of the CIT(A)-
Bilaspur, dated 26.3.2012 for the assessment year 2005-06.

2. In this appeal, the assessee has raised grounds against confirmation of
following additions:

- i) Rs.73,50,000/- as share application money.
- ii) Rs. 2,00,000/- unsecured loan
- iii) Rs.1,11,442/- pooja expenses
- iv) Rs. 66,000 traveling expenses



3. As regards to first limb i.e. confirmation of share application money of Rs.73,50,000/-, the relevant facts are that the assessee derives income from running a sponge iron plant. The Assessing Officer found that the assessee has received share application money of Rs.90,00,000/- from seven kolkiaata based parties as under:

1)	Tech Build Impex Ltd.,	:	Rs.10,50,000/-
2)	Lupin Vinimay Pvt Ltd.,	:	Rs.10,50,000/-
3)	Zipper Mercantiles Pvt Ltd.,	:	Rs.10,50,000/-
4)	Suydama Trading and Invest Ltd.:		Rs.10,50,000/-
5)	Segment Mercantiles Pvt Ltd.,:		Rs.10,50,000/-
6)	Suraj stone Corporation Ltd.,		Rs.10,50,000/-
7)	Midpoint Marketing Pvt Ltd.,		<u>Rs.10,50,000/-</u>
			Rs.90,00,000/-

The Assessing Officer required the assessee to file documentary evidence to establish the share application received from the above parties. However, the assessee failed to substantiate and establish the capital investment made by the above parties with copies of share application forms, details of their income, balance sheet, capital account, names, address of the directors of the companies and bank statement. Therefore, the Assessing Officer added the same to the income of the assessee.



4. On appeal, before the CIT(A), the assessee filed some additional evidences, to which, he called for a remand report from the Assessing Officer. The Assessing Officer endorsed the findings of the Assessing Officer made at the assessment stage. Before the CIT(A), the assessee pointed out that there is a discrepancy in the assessment order on addition made on this account and share application money should be Rs.73,50,000/- instead of Rs.90,00,000/-. The explanation of the assessee was found acceptable and the CIT(A) reduced the addition to Rs.73,50,000/-.

5. Still further aggrieved, the assessee is in appeal before us.

6. Ld A.R. of the assessee submitted that the assessee company has provided all details including PAN, date and number of account payee cheques, share application form, resolution copies of respective companies with their names and address, which have not been considered either by the Assessing Officer or the CIT(A). He, therefore, urged to delete the addition based on the above details furnished by the assessee.

7. On the other hand, Id D.R. supported the order of the CIT(A).

8. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. In the instant case, we find the assessee has received Rs.73,50,000/- as share application money from different Kolkata based parties. The CIT(A) has observed that the primary documents like bank statement of the assessee companies, their balance



sheets and capital accounts, its own bank statement alongwith the details of debit and credit entries have not been filed either before the Assessing Officer or before him. On perusal of copies of allotment letter of shares, it is seen that the signature of the authorized signatory is missing and nowhere the resolution passed by the applicant companies suggest investment of share application in the assessee company. Copies of income tax returns expect in the case of Suraj Stone Corporation Limited, were not furnished. Before us also, the assessee could not produce any evidence or substantiate with cogent materials to prove the creditworthiness and genuineness of transaction by the applicant companies. Hence, we confirm the addition of Rs.73,50,000/- and dismiss the ground of appeal of the assessee.

9. As regards to second limb of ground of unsecured loan, the Id A.R. of the assessee did not press this ground, therefore, same is dismissed as not pressed.

10. As regards to the addition of Rs.,1,11,442/- made on pooja expenses, the facts are that the Assessing Officer noticed that the assessee has claimed Rs.1,39,276/- as pooja expenses. The Assessing Officer after allowing rebate of Rs.27,834/- relatable to Diwali and Vishakarma festival, disallowed Rs.1,11,442/- and added the same to the income of the assessee.

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



12. Ld A.R. of the assessee submitted no monetary limit has been assigned to claim pooja expenses which are invariably incurred in the business premises for the purpose of business. The expenses are incurred to boost the morale of the employees and to motivate them to devote their duties for the best interest of the company.

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

14. We have heard the rival contentions and perused the material available on record. The main reason for disallowing the pooja expenses by the lower authorities is that the assessee company being an artificial juridical person, the pooja expenses is inadmissible. But the allowability of pooja expenses is required to be considered for specific purpose in order to bring peace and harmony amongst the labour-oriented factory which involves various sentiments and religious fervor. Before us, the learned Counsel has not been able to specify the major pooja performed on which expenditure stands incurred for the purpose of business of the assessee. However, the assessee incurred some expenses to motivate the morale of the employees to perform various religious activities in the factory premises. In our considered view, it would meet the ends of justice, if we restrict the disallowance to 50% out of the total expenses incurred by the assessee.



Therefore, we modify the orders of lower authorities and the assessee gets relief of Rs.55,771/- . This limb of the ground is partly allowed.

15. As regards to disallowance of travelling expenses of Rs.66,000/-, we find that the assessee had claimed traveling expenses of Rs.20,22,219/-. The Assessing Officer disallowed Rs.2,00,000/- out of total expenses considering the fact that the personal of Directors are not ruled out. On appeal, the CIT(A) following the decision of Hon'ble Gujarat High Court in the case of Sayaji Iron and Engg Co. vs CIT, 253 ITR 749(Guj) restricted the disallowance to Rs.66,000/-.

16. We have heard the rival submissions and materials available on record. Considering the turnover of the assessee and also the fact that the assessee could not substantiate with proper evidence , we do not find any merit in the ground of the assessee. We, therefore, confirm the order of the CIT(A) and dismiss this limb of the ground of the assessee.

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

Order pronounced on 11/01/2018.

Sd/-

(N.S Saini)
ACCOUNTANT MEMBER

sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

Raipur; Dated 11 /01/2018



B.K.Parida, SPS

Copy of the Order forwarded to :

1.	The Appellant : M/s.Shree Radhe Industries, Popular Market, Gandhi Bag, Nagpur-440001
2.	The Respondent. ACIT, Circle 1(1), Bilaspur
3.	The CIT(A)- Bilaspur
4.	Pr.CIT- Biulaspur
5.	DR, ITAT, Raipur
6.	Guard file. //True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Raipur