

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR
BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.219(Asr)/2017
Assessment Year:2013-14

The Dy. CIT,
Circle-4, Jalandhar

Vs. M/s Lally Motors Pvt. Ltd.
G.T. Road, Paragpur
Jalandhar

PAN:AAACP2760P

(Appellant)

(Respondent)

Appellant by: Smt. Balwinder Kaur (Ld. DR)
Respondent by: Sh. J.P Sondhi (Ld. Adv.)

Date of hearing: 31.01.2018
Date of pronouncement: 16.03.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Revenue Department, on feeling aggrieved against the order dated 14.02.2017 passed by the Ld. CIT(A)-2, Jalandhar u/s 250(6) of the I.T. Act, 1961 (hereinafter called as 'the Act) for Asst. Year:2013-14.

2. The grounds of appeal raised by the Revenue Department are as under:

“1. (a). Whether on the facts and in the circumstances of the case, the CIT(A) was justified in restricting the disallowance of Rs.25,00,000/- made by the AO out of ‘Rebate and Discount’ to Rs.5,00,000/-.

1(b). Whether on the facts and in the circumstances of the case, the CIT(A) was justified in not appreciating the finding of AO that the discounts allowed to the customers have not been mentioned on sale bills.

2(a). Whether on the facts and in the circumstances of the case, the CIT(A) was justified in restricting the disallowance of Rs.20,00,000/- made by the AO out of ‘incentives to employees’ to Rs.3,00,000/-.

2(b). Whether on the facts and in the circumstances of the case, the CIT(A) was justified in not appreciating the finding of AO that ‘incentives’ increased substantially though the sales declined.

2(c). Whether on the facts and in the circumstances of the case, the CIT(A) was justified in not allowing the AO an opportunity to examine the various new details filed during appellate proceedings on this issue.

3(a). Whether on the facts and in the circumstances of the case, the CIT(A) was justified in restricting the disallowance of Rs.5,00,000/- made by the AO out of ‘Travelling and vehicle running expenses’ to Rs.1,50,000/-.

3(b). Whether on the facts and in the circumstances of the case, the CIT(A) was justified in not allowing the AO an opportunity to examine the various new details filed during the appellate proceedings on this issue.

4. It is prayed that the order of the Ld. Commissioner of Income Tax (Appeals) be set aside and that of the Assessing Officer be restored.”

3. Let us to adjudicate the ground No.1(a) and (1)(b), simultaneously because these are connected with each other and relates to the disallowance of Rs.25,00,000/- made by the AO out of 'Rebate and Discount' which was restricted by the Ld. CIT(A) to Rs.5,00,000/-. The Ld. CIT(A) while considering the chart shown by the assessee in support of its contention in terms of customers details to whom the discount and rebate was passed on along with amount received from the parent company in accordance with their policy for boosting sales from time to time. It is admitted fact that the assessee has filed details of discount given to each customer and details of actual payments made to the Insurance Company from the banking channel which was considered by the Ld. CIT(A) and also acknowledge of having copies of invoices issued to the customers and received from the Principal Company to substantiate the assessee's contention on record. Even the Ld. CIT(A) also considered the order on the similar issue passed in the preceding year and then only restricted the disallowance of Rs.5,00,000/- out of the total disallowance of 25,00,000/- as made by the A.O.

The Ld. DR has failed to produce any contrary material and/ or submissions in order to controvert the reasoning assigned by the Ld. CIT(A) and hence, we do not find any infirmity, irregularity and impropriety in restricting the disallowance to 20% of the total disallowance as determined by the AO.

4. Now, coming to the Ground No.2(a),(b) and (c) which relates to the disallowance of Rs.20,00,000/- made by the AO qua 'incentives to employees' which was restricted to Rs.3,00,000/- by the Ld. CIT(A). While restricting the addition of Rs.20,00,000/- to 3,00,000/- the Id. CIT(A) has taken into consideration details of expenses filed by the assessee qua incentives given to the staff/employees working in different sections which includes sales, insurance and workshop as well as breakup of payments made to various employees engaged in the aforesaid Departments at various locations such as Amrtsar, Ludhiana, Jalandhar and Patiala. The Ld. CIT(A) has also considered the details furnished of incentives given to each employee at Jalandhar along with details of Bank Account No., name of the Bank and employees of the assessee to those such payment has been made. It is also reflects from the record that amount of Rs.67,59,317/- has been paid by the cheque and rest Rs.14,28,963/- has been shown as payable at the end of the year under consideration and only an amount of Rs.8,02,743/- has been paid in cash. On the basis of aforesaid consideration, the Ld. CIT(A) restricted the addition qua incentive to employees from Rs.20,00,000/- to Rs.3,00,000/- only.

On the aforesaid analyzation, we are of the considered view that the restrictions of disallowance qua incentive to employees to Rs.3,00,000/- by the Id. CIT(A) is based upon the logical reasoning and material available on record, therefore, it is

not justified to say that the AO was not allowed an opportunity to examine the various new details filed during the appellate proceedings on this issue. Hence, on the aforesaid reasoning, we are inclined to uphold the disallowance qua incentives to employees to Rs.3,00,000/- as restricted by the Ld. CIT(A).

5. Now coming to ground no.3 (a) & (b) which are interconnected, therefore, taken into consideration for adjudication simultaneously. The ground no.3 relates to the restriction of disallowance of Rs.5,00,000/- made by the AO qua traveling and vehicle running expenses to Rs.1,50,000/-. The Ld. CIT(A) while deciding this issue has considered the details furnished by the appellant qua vehicle running expenses as well as traveling and conveyance expenses. The Ld. CIT(A) also observed that out of total amount of Rs.53.84 Lac qua vehicle running expenses, an amount of Rs.1.66 lac have only been spent in cash and with regards to the traveling and conveyance no breakup of expenses incurred in cash and by cheque has been provided by the assessee, therefore, considering the circumstances in total, restricted the disallowance of Rs.5,00,000/- to Rs.1,50,000/- as just and fair, which according to our mind does not suffer from any illegality, perversity and impropriety. In overall circumstances, the order under challenge does not suffer from any perversity, illegality and impropriety, hence, the same is upheld.

6. In the result, the appeal filed by the Revenue Department stands dismissed.

Order pronounced in the open Court on 16.03.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:16.03.2018

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Copy of the order forwarded to:

- (1) M/s Lally Motors Pvt. Ltd., Jalandhar
- (2) The DCIT, Circle-4, Jalandhar
- (3) The CIT(A)-2, Jalandhar
- (4) The CIT concerned.
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order