

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM AND SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 959/JP/2017
निर्धारण वर्ष / Assessment Years : 2014-15

M/s Jagdambe Stone Company, Bijasana, Pahari, Bharatpur.	बनाम Vs.	Deputy Commissioner of Income Tax, Circle, Bharatpur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AAIFJ 7275 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None
राजस्व की ओर से / Revenue by : Smt. Seema Meena (JCIT)

सुनवाई की तारीख / Date of Hearing : 26.03.2018.
घोषणा की तारीख / Date of Pronouncement : 27/03/2018.

आदेश / ORDER

PER: VIKRAM SINGH YADAV, AM

The appeal is filed by the assessee against the order of Id. CIT(A)-22, Alwar, dated 09.10.2017 for the A.Y. 2014-15 wherein the assessee has taken the following grounds of appeal:-

- “1. That having regard to the facts and circumstances of the case, the Ld. CIT(A) erred in law and on facts by confirming addition of Rs. 3,90,137/- in total income of the appellate firm as made by Ld. AO u/s 68 without appreciating the facts of the case and the material brought on record by the appellant.
2. In doing so, the Ld. CIT(A) has erred in law and on facts by confirming addition u/s 68 in regard of capital contribution of Rs. 3,90,137/- in the income of the firm and not in the income of the partners individually.
3. That telephone and travelling expense are purely business expenses and the Ld. CIT(A) was not justified in confirming ad-hoc additions of Rs. 12,330/- u/s 37(1) made by Ld. AO.”

2. No one appeared on behalf of the assessee nor any adjournment application was filed. Therefore, it was decided to hear the matter ex-parte qua the assessee based on material available on record.

3. In ground no. 1 & 2, the assessee has challenged the addition of Rs. 3,90,137/- which has been sustained by the Ld. CIT(A) u/s 68 of the Act. Briefly the facts of the case are that, during the year under consideration, four partners of the assessee firm have contributed Rs. 12 lakhs each as partner's capital in the firm. The partners claimed to have agricultural land in their individual names and have claimed that the source of partner's capital is from the sale of agricultural produce. The AO, however, rejected the claim of the assessee for the reasons that no agricultural income has been declared in their individual tax return filed by the respective partners. During the course of appellate proceedings, the Ld. CIT(A) has given a finding that there is not dispute with regard to holding of agricultural land in the individual names of the partners. The Ld. CIT(A) has also taken note of the fact that the partners have given confirmations and have also filed Jamabandi and the proof of sale of agricultural produce along with anaaj mandi vouchers during the assessment proceeding. Regarding the objections of the AO of not reporting the agricultural income by the Partners in their individual return of income, the Ld. CIT(A) held that if the individual partners have failed to declare such agricultural receipts in their return of income, then they should be held

responsible for the omission and necessary action may be initiated against them by the Revenue. However, as far as the firm is concerned, it is a separate legal entity and the firm has discharged its onus by providing all the necessary details with regard to capital received during the year under consideration. The Ld. CIT(A) thereafter examined the individual source of income in the hands of the each of the four partners vis-à-vis capital introduced and has given a finding that Shri Om Prakash is a only partner who has the adequate agricultural income to cover the investment in the share capital and as far as other three partners are concerned, there is a short fall of Rs. 3,90,137/-, the source of which remain unexplained. It was accordingly held by the Ld. CIT(A) that the partners capital investment to the extent to Rs. 44,09,863/- has been explained. However, the balance amount of Rs. 3,90,137/- remains unexplained and to that extent the addition made by the AO u/s 68 was sustained. There is nothing on record to controvert the said findings of the Id CIT(A). We therefore do not see any infirmity in the said order of the Ld. CIT(A) and the addition so made by the AO is hereby confirmed. In the result, Ground nos. 1 & 2 of the assessee's appeal are dismissed.

4. In ground no. 3, the assessee has challenged the action of the Ld. CIT(A) in sustaining the disallowance of Rs. 12,330/- out of Rs. 40,660/- made by the AO on account of various expenses. The Ld. CIT(A) while confirming the said disallowance held that the telephone and travelling

expenses do have an element of personal expenses and he therefore, confirmed the same. We do not see any infirmity in the said findings of the Ld. CIT(A) and the same is hereby affirmed. In the result, ground no. 3 of the assessee's appeal is dismissed.

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on 27/03/2018.

Sd/-
(श्री विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

Sd/-
(विक्रम सिंह यादव)
(VIKRAM SINGH YADAV)
लेखा सदस्य /Accountant Member

Jaipur

Dated:- 27/03/2018.

Pooja/

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

1. The Appellant- M/s Jagdambe Stone Company, Bharatpur.
2. The Respondent – DCIT, Circle-Bharatpur.
3. The CIT.
4. The CIT (4),
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 959/JP/2017)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar

