

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G", MUMBAI

Before Shri Joginder Singh(JUDICIAL MEMBER)

AND

Shri G Manjunatha (ACCOUNTANT MEMBER)

I.T.A No.251/Mum/2018
(Assessment year: 2012-13)

Mr. Moreshwar Ajgaonkar 7/8, 3 rd Floor, Sambava Chambers, Sir PM Road, Mumbai-400 001 PAN : AAAPA6071H	vs	ITO 16(3)(1), Mumbai
APPELLANT		RESPONDENT

Appellant by	Shri Sashank Dundu
Respondent by	Smt. M Hemalatha

Date of hearing	01-05-2018
Date of pronouncement	15-05-2018

ORDER

Per G Manjunatha, AM :

This appeal filed by the assessee is directed against the order of the CIT(A)-7, Mumbai dated 15-11-2017 and it pertains to AY 2012-13.

The assessee has raised the following grounds of appeal:-

- “1. The Learned Commissioner Income Tax (Appeals) failed to pass a reasoned speaking order after considering the submissions of the Assessee.
2. The Learned Commissioner Income Tax (Appeals) erred in disallowing conveyance expenditure of Rs. 41,5887- incurred by the Assessee, wholly and exclusively for the purpose of business, on an adhoc basis.
3. The Learned Commissioner Income Tax (Appeals) erred in disallowing telephone expenses of Rs. 1,03,8187- on an adhoc basis incurred by the Assessee wholly and exclusively for the purpose of

business.”

2. The brief facts of the case are that the assessee is a proprietor of M/s MR Ajgaonkar & Co, is engaged in the business of Consolidated Collection Services, RMS Associates & RMS Courier Services, filed his return of income for AY 2012-13 on 30-09-2012 declaring total income at Rs.17,48,090. The case has been selected for scrutiny and notices u/s 143(2) and 142(1) of the Act, were issued. In response to notices, the authorized representative of the assessee appeared from time to time and furnished the details as called for. The assessment has been completed u/s 143(3) on 29-03-2015 determining the total income at Rs.13,23,839 interalia making addition towards adhoc disallowance of 5% mobile and telephone expenses of Rs.1,03,818, 20% adhoc disallowance of conveyance expenses for Rs.41,588 and disallowance of expenses incurred in relation to exempt income u/s 14A of the Act for Rs.10,000.

3. Aggrieved by the assessment order, assessee preferred appeal before the CIT(A). Before the CIT(A), assessee has filed elaborate written submissions on additions made by the AO towards adhoc disallowance of mobile and telephone expenses, conveyance expenses and disallowance of expenses u/s 14A of the Act, which has been reproduced by the Ld.CIT(A) at para 4 of his order on pages 2 to 4. The

sum and substance of the arguments of the assessee before the Ld.CIT(A) are that the AO was erred in making adhoc disallowance of expenses when assessee has filed necessary evidence to justify expenses debited under the head 'mobile and telephone expenses, conveyance expenses'. The CIT(A), after considering relevant submissions of the assessee observed that the assessee failed to prove before the AO that the said expenses were incurred wholly and exclusively for the purpose of business and also fact that the assessee had agreed before the AO for such addition. Accordingly, there is no reason to take a view of the matter different from the one taken by the AO and, therefore, confirmed addition made by the AO towards adhoc disallowance of mobile & telephone expenses and disallowance of conveyance expenses. Aggrieved by the order of CIT(A), assessee is in appeal before us.

4. The first issue that came up for our consideration is adhoc disallowance of conveyance expenses of Rs.41,588. The Ld.AR for the assessee submitted that the disallowance worked out by the AO is excessive and unreasonable, therefore, a reasonable amount of disallowance may be maintained. On the other hand, the Ld.DR strongly supported the order of the lower authorities.

5. Having heard both the sides and considered material on record, we

find merit in the argument of the assessee for the reason that the AO has made adhoc disallowance of 20% of conveyance expenses without any observation with regard to the bills and vouchers produced by the assessee. Therefore, considering overall facts and circumstances of the case and also to meet the ends of justice, we deem it appropriate to reduce the disallowance worked out by the AO to the extent of Rs.10,000 towards conveyance expenses and delete balance amount of Rs.31,588.

6. The next issue that came up for our consideration is adhoc disallowance of 5% of mobile and telephone expenses. The AO has disallowed an amount of Rs.1,03,818 towards adhoc disallowance of mobile and telephone expenses on the ground that the assessee has failed to file necessary bills and vouchers to justify expenses incurred towards mobile and telephone expenses. It is the contention of the assessee that disallowance worked out by the AO is excessive and unreasonable, therefore, disallowance worked out by the AO be scaled down to a reasonable amount.

7. Having heard both the sides and considered material available on record, we find that the AO has worked out adhoc disallowance of Rs.1,03,818 without any specific observations with regard to the incorrectness in bills and vouchers submitted by the assessee to justify

expenses incurred under the head 'mobile and telephone expenses'. Though certain amount of personal expenses can be attributable to mobile and telephone expenses, disallowing an amount of Rs.1,03,818 appears to be excessive and unreasonable. Therefore, we are of the considered view that to meet the ends of justice, we deem it appropriate to scale down disallowance worked out by the AO to Rs.25,000. Accordingly, we direct the AO to sustain addition to the extent of Rs.25,000 towards mobile and telephone expenses and delete balance amount of Rs.78,818.

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

Order pronounced in the open court on 15th May, 2018.

Sd/-

sd/-

(Joginder Singh)	(G Manjunatha)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai, Dt : 15th May, 2018

Pk/-

Copy to :

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

/True copy/

By order

Sr.PS, ITAT, Mumbai