

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

श्री विजय पाल रॉव, 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. 15/JP/2018  
निर्धारण वर्ष/Assessment Year : 2014-15.

M/s. S.R. Protiens Pvt. Ltd., D-97, Shanti Sadan, Ambabari, Jaipur.	बनाम Vs.	The ACIT, Circle-4, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AAICS 0896 F		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से / Assessee by : Shri Shrawan Kumar Gupta (Advocate)  
राजस्व की ओर से / Revenue by : Shri J.C. Kulhari (JCIT)

सुनवाई की तारीख / Date of Hearing : 28.06.2018.  
घोषणा की तारीख / Date of Pronouncement : 29/06/2018.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the assessee is directed against the order dated 16<sup>th</sup> November, 2017 of Id. CIT (A)-2, Jaipur for the assessment year 2014-15. The assessee has raised the following grounds :-

1. That the impugned assessment order u/s 143(3) dated 31.12.2015 is bad in law and on facts of the case for want of jurisdiction and for various other reasons and hence the same may kindly be quashed.
2. Rs. 2,50,000/-: The Id. CIT (A) has grossly erred in law as well as on the facts of the case in partly sustaining the disallowance of expenses of Rs. 2,50,000/- out of Rs. 4,00,000/- disallowed by the AO on account of various expenses, without invoking the provisions of Sec. 145(3), which was bases merely on assumption, presumption and suspicion. The disallowance so made by the Id. AO and partly confirmed by the CIT (A) is being absolutely, contrary to the provisions of law and facts of the

case and not in conformity with the law, hence the same may kindly be deleted in full.

3. The Id. AO erred in law as well as on the facts of the case in charging of interest u/s 234B, 234C & 234D as consequential in nature. The appellant totally denies its liability of charging of any such interest. Hence the interest so charged, being contrary to the provisions of law and facts, may kindly be deleted in full.
4. The appellant prays your honors indulgence to add, amend or alter all or any of the grounds of the appeal on or before the date of hearing."

2. During the course of assessment proceedings, the AO made an adhoc disallowance of Rs. 4,00,000/- on account of various expenses relating to labour payment, boiler running expenses, mustard seed crush expenses etc. for want of supporting evidence as the assessee has produced self made vouchers. On appeal, the Id. CIT (A) has restricted the disallowance to Rs. 2,50,000/-.

3. We have heard the Id. A/R as well as the Id. D/R and considered the relevant material on record. The Id. A/R of the assessee has submitted that the AO had made an adhoc disallowance whereas all these expenses are essential for doing the business activity of the assessee of crushing the mustard seeds for the purposes of extracting oil and mustard cake. Thus the Id. A/R has submitted that the assessee has produced all the relevant record to show that the expenses are not excess considering the nature of activity carried out by the assessee. Therefore, the adhoc disallowance is not justified.

3.1. On the other hand, the Id. D/R has submitted that the assessee has made the payments in cash of Rs. 19,000/- each time to avoid the provisions of the Act and further the assessee has produced only self made vouchers, therefore, in the

absence of proper bills and vouchers, the expenses are not verifiable. He has relied upon the orders of the authorities below.

4. After considering the rival submissions as well as relevant material on record, at the outset we note that an identical issue was considered by the Coordinate Bench of this Tribunal in assessee's own case for the assessment year 2013-14 wherein the AO had made an identical disallowance of Rs. 4,00,000/- in respect of the expenses which was restricted by the Id. CIT (A) to Rs. 2,00,000/-. On further appeal, the Tribunal has considered the issue in para 2.4 as under :-

"2.4 The Bench has the rival contentions and perused the materials available on record. It is noted that the AO made the lumpsum disallowance of Rs. 4.00 lacs as the expenses were not verifiable for want of proper bills and vouchers. In first appeal, the Id. CIT(A) has reduced the same to the extent of Rs. 2.00 lacs. During the course of hearing, the Id.AR of the assessee filed the following statement showing comparative expense.

Nature of expenses	A.Y. 2013-14	A.Y. 2012-14
Boiler Running expenses (excluding Coal & Fuel Expenses)	11,62,680	10,49,497
Mustard Cake expenses	11,67,459	10,62,573
Mustard Oil expenses	11,70,530	10,57,045
Mustard Seed expenses	11,62,680	11,75,240
Total	46,63,349	43,44,355
Marginal increase	3,18,994	
Amount of total sales	84,97,18,792	70,12,90,610
Thus increase in the amount of sales by Rs.	14,84,28,1822	

Taking into consideration the facts, circumstances of the case and the orders of the lower authorities, it will be in the interest of equity and justice to sustain the addition to the extent of Rs. 1.00 lacs as against Rs. 2.00 lacs confirmed by the Id. CIT(A). Thus Ground No. 1 and 2 of the assessee is partly allowed.”

Thus on identical facts, the Tribunal has restricted the disallowance to the extent of Rs. 1,00,000/- for the assessment year 2013-14 and to maintain the rule of consistency, we following the earlier order of this Tribunal and consequently the disallowance sustained by the Id. CIT (A) is restricted to Rs. 1,00,000/-.

5. In the result, appeal of the assessee is partly allowed.

Order is pronounced in the open court on 29/06/2018.

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

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

Jaipur  
Dated:- 29/06/2018.  
Das/

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

1. The Appellant- M/s. S.R. Protiens Pvt Ltd., Jaipur.
2. The Respondent – The ACIT, Circle-4, Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 15/JP/2018)

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant. Registrar

