

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.371/Del./2018
Assessment Year 2013-2014

Shri Punit Chowdhary, D-292, 2 nd Floor, Defence Colony, New Delhi 110024. PAN AAPPC1897A	vs.	The ACIT, Circle-54(1), Room No.1502, 15 th Floor, E-2 Block, Civic Centre, New Delhi – 110 002.
(Appellant)		(Respondent)

For Assessee :	Shri B.L. Gupta, F.C.A.
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	12.07.2018
Date of Pronouncement :	12.07.2018

ORDER

This appeal by assessee has been directed against the Order of the Ld. CIT(A)-18, New Delhi, dated 14.12.2017, for the A.Y. 2013-2014.

2. I have heard the learned Representatives of both the parties and perused the findings of the authorities below.

3. Ground Nos. 1 and 4 are general in nature and need no adjudication.

4. In Ground No.2, the assessee challenged the addition of Rs.2,23,415/-. The A.O. noted in the assessment order that assessee had debited expenses of Rs.22,34,153/- on account of telephone expenses, travelling and conveyance, vehicle expenses and repair and maintenance. The A.O. noted that no amount on account of use of the assets/facilities by the assessee and their family members have been added back by the assessee. Also the issue of non-business use of these expenses cannot be ruled-out completely. The A.O. disallowed 1/10th of the expenditure and made the addition. The assessee submitted before Ld. CIT(A) that addition is highly unreasonable. The Ld. CIT(A), however, confirmed the addition.

5. After considering the rival submissions, I am of the view that addition is wholly unjustified. The A.O. has not pointed out as to which is personal expenditure incurred by the assessee. Merely because no amount have been added back by the assessee for personal use is no ground to make adhoc addition. If the A.O. wanted to disbelieve the explanation of

assessee, he should bring some finding of fact against the assessee on record. Otherwise, on mere presumption adhoc addition is not justified. I, accordingly, set aside the orders of the authorities below and delete the addition of Rs.2,23,415/-. Ground No.2 is allowed.

6. On ground No.3, assessee challenged the disallowance of Rs.8,15,312/- on account of business promotion expenses. The A.O. noted that assessee had debited expenses of Rs.16,30,624/- in the P & L A/c on account of business promotion. The assessee submitted before A.O. that business promotion expenses relates to Tea, Coffee and other entertainment expenses incurred for customers and there are no vouchers available for this kind of expenses. The A.O, therefore, disallowed 50% of the expense and made addition of Rs.8,15,312/-. The Ld. CIT(A) noted that assessee has failed to discharge his primary onus to justify and substantiate the claim of expenses. This ground of the assessee was dismissed.

7. After considering the rival submissions, I am of the view that addition is excessive in nature. Learned Counsel for the Assessee submitted that turnover of the assessee is Rs.9.21 crores and the business promotion expenses comes to 1.76% only of the turnover. Since the nature of the expenditure itself shows that no proper vouchers would be available with the assessee of small expenditure, therefore, considering the turnover of the assessee and income declared by assessee of Rs.22,24,502/- in the return of income, I am of the view that the addition on account of disallowance of business promotion is excessive in nature. The A.O. did not dispute that business promotion expenses have been incurred wholly and exclusively for the purpose of business because A.O. has allowed 50% of the deduction of such expenses. In this view of the matter, I modify the orders of the authorities below and direct the A.O. to disallow 10% of the expenses instead of 50% on account of business promotion expenses. This ground is partly allowed.
8. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 12th July, 2018

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.