

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : C : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI JOGINDER SINGH, JUDICIAL MEMBER

ITA No.4537/Del/2015
Assessment Year : 2011-12

Gagrat & Co.,
Supreme Court Advocates,
Plaza Cinema Building,
Connaught Circus,
New Delhi.
PAN: AAAFG1726H

Vs. ACIT,
Circle-39(1),
New Delhi.

(Appellant)

(Respondent)

Assessee By : Shri Vikas Madan, Advocate
Department By : Shri Arun Kumar Yadav, Sr. DR

Date of Hearing : 01.08.2018
Date of Pronouncement : 01.08.2018

ORDER

PER R.S. SYAL, VP:

This appeal filed by the assessee arises out of the order passed by the
CIT (A) on 28.05.2015 in relation to the assessment year 2011-12.

2. The only issue raised in this appeal is against the confirmation of disallowance of Rs.6 lac, being, the amount paid by the assessee-firm to Shri U.A. Rana (Resident partner) as reimbursement of Rs.4 lac per annum towards running and maintenance of motor car; Rs.1,20,000/- p.a. towards maintenance of consultation room at his residence; and Rs.80,000/- per annum towards entertainment expenses for clients at the consultation room.

3. Briefly stated, the facts of the case are that the assessee is a partnership firm of advocates practising at the Hon'ble Supreme Court of India. It claimed deduction , *inter alia*, of Rs.6 lac, being, the amount paid to Shri U.A. Rana (Resident partner) towards expenses as enumerated above. On being called upon to justify the deduction, the assessee could produce bills/vouchers which were in the name of the partner and not the assessee firm. The Assessing Officer opined that the partnership firm can legitimately claim deduction on account of interest and salary to partners subject to the limits u/s 40(b) of the Act and, hence, such expenses incurred were not deductible. He, therefore, made disallowance of Rs.6 lac, which came to be affirmed in the first appeal.

4. Having heard both the sides and perused the relevant material on record, it is observed that similar disallowance of Rs.6 lac was made by the Assessing Officer in the assessment for the immediately preceding assessment year, namely, 2010-11, which stood affirmed in the first appeal. The matter came up for consideration before the Tribunal. Vide order dated 08.03.2016, the Tribunal, in ITA No.6067/Del/2013, has restored the matter to the file of Assessing Officer for deciding it afresh after giving certain directions. Since the facts and circumstances of the instant year are *mutatis mutandis* similar to those of the immediately preceding year, respectfully following the precedent, we set aside the impugned order to this extent and remit the matter to the file of the Assessing Officer for deciding this issue afresh in the hue of the observations made by the Tribunal for the preceding year.

5. In the result, the appeal is allowed for statistical purposes.

The order pronounced in the open court on 01.08.2018.

Sd/-

[JOGINDER SINGH]
JUDICIAL MEMBER

Dated, 01st August, 2018.

Sd/-

[R.S. SYAL]
VICE PRESIDENT

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Copy forwarded to:

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

AR, ITAT, NEW DELHI.