

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI R.C. SHARMA, HON'BLE ACCOUNTANT MEMBER &
SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER**

ITA NO.1874/MUM/2018 (A.Y: 2013-14)

Smt. Hena Deepak Gulabani
201, Aroma C.H.S. Ltd.,
14th Road, Khar (W)
Mumbai – 400 052

v.

ITO – 22(1)(5)
Room No. 323
Piramal Chambers
Lalbaug, Mumbai

PAN: AEWPG 3761 L

(Appellant)

(Respondent)

Assessee by	:	Shri Ashok Sharma & Shri Deepak Gulabani
Department by	:	Ms. N. Hemalatha
Date of Hearing	:	29.05.2018
Date of Pronouncement	:	03.08.2018

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals) -34, Mumbai dated 25.01.2018 for the Assessment Year 2013-14.

2. Assessee in this appeal challenged the order of the Ld.CIT(A) in restricting the disallowance to 25% on various heads i.e. car expenditure, insurance and interest on car loan, depreciation on car, entertainment

expenses, electricity expenses, professional fee, salary expenses, telephone expenses, rent rates and taxes, bank charges and DMAT charges.

3. Briefly stated the facts are that, the assessee who is into brokerage business filed her return of income on 26.07.2013 declaring income of ₹.12,28,240/-. The assessment was completed on 28.01.2016 u/s.143(3) of the Act determining the income at ₹.20,46,781/-. While computing the income of the assessee the Assessing Officer disallowed the expenses of ₹.7,84,260/- which were deducted by the assessee against brokerage business. The observation of the Assessing Officer was that, assessee received brokerage income of ₹.1,17,146/- and whereas the expenditure of ₹.7,84,260/- was booked against this receipt and showed business loss of ₹.6,51,995/- and this was set off against income from other sources of ₹.19,80,231/- and arrived at a total income of ₹.13,28,237/-. He also observed that in the Assessment Year 2012-13 also the business loss of ₹.4,53,610/- was set off against other sources. The Assessing Officer analyzed the business activity of the assessee and concluded the expenses booked by the assessee were not incurred wholly and exclusively for the purpose of business as required u/s. 37(1) of the Act. Therefore, the expenses debited by the assessee under various heads

amounted to ₹.7,84,260/- were disallowed. On appeal the Ld.CIT(A) restricted the disallowance to 25%.

4. Ld. Counsel for the assessee, before us submitted that assessee is into brokerage business, all the expenses were incurred wholly and exclusively for the purpose of business, therefore there is no justification in disallowing and restricting the same to 25%.

5. Ld. Counsel for the assessee has furnished a chart showing the percentage of disallowance restricted by the Ld.CIT(A) and submitted that there is no justification in sustaining the entire expenses under the head client entertainment, electricity, rent rates and taxes, salary and 56% towards telephone expenses. It is also submitted that in the subsequent years Assessing Officer himself restricted all these expenses to 25%, therefore he submitted that there is no justification in sustaining the disallowance completely and the restriction made by the Ld.CIT(A) to 56% in respect of telephone expenses, 34%, 41%, 43% in respect of interest on car, car insurance and car expenses respectively are on high side.

6. Ld. DR vehemently supported the orders of the authorities below.

7. We have heard the rival submissions, perused the orders of the authorities below. on hearing both the sides and taking the totality of facts and circumstances into consideration, we direct the Assessing Officer to

restrict the expenses under all these heads to 25% as was done in subsequent Assessment Years. Grounds raised by the assessee are partly allowed.

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

Order pronounced in the open court on the 03rd August, 2018

Sd/-
(R.C. SHARMA)
ACCOUNTANT MEMBER
Mumbai / Dated 03/08/2018
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum