

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

BEFORE SH. J.SUDHAKAR REDDY, ACCOUNTANT MEMBER

ITA No.1378/KOL/2018

[Assessment Year: 2013-14]

Vimaleshwar Overseas Co., C/o-Sri. S.L.Kochar, Advocate, 5, Ashutosh Chowdhury Avenue, Kolkata-700019. PAN-AADFV7866J	vs	ITO, Ward-31(1), 10B, Middleton Row, 3 rd Floor, Kolkata-700071.
(Appellant)		(Respondent)

Appellant by	Sh. Anil Kochar, Advocate
Respondent by	Sh. Saurav Kumar, Addl. CIT
Date of Hearing	27.09.2018
Date of Pronouncement	05.10.2018

ORDER

PER J.SUDHAKAR REDDY, ACCOUNTANT MEMBER

This appeal filed by the assessee against the order dated 24.05.2018 passed by CIT(A)-09, Kolkata for AY 2013-14.

2. In this case, the assessee disputed the addition on account of disallowance made by the AO on payments of Rs.3,61,75/- towards late and non-submission of "C" Form and adhoc disallowance of Rs.73,975/- of club expenses. The assessee in this case was engaged in the purchase and sale of Import licenses and acting as a Commission Agent. The assessee acted as a mediator for some purchase and sale of goods. "C" Forms were not received from the purchaser for these transactions and consequently the same could not be given to the seller. It is the obligation of the buyer to submit "C" Form to the seller. As this was not done, the assessee, had to compensate the seller the differential amount of tax. The AO disallowed the same on the ground that this expense is not the liability of the assessee. In my view, the payment is made for commercial expediency. The fact is that the assessee has incurred this expenditure. The disallowance is bad in law as the genuineness of the expenses was not doubted. In these circumstances, I delete the addition and allow this ground of the assessee.

3. Regarding disallowance of club expenditure, the AO has observed that the expenses were not personal in nature. Before us, Ld. Counsel for the assessee could not produce any evidence to controvert the evidence of Ld.CIT(A). Ld.CIT(A) upheld this disallowance on the ground that the assessee could not establish that the expenditure was for business purpose. I find no infirmity in the order of Ld.CIT(A). I uphold the same and dismiss this ground of appeal of the assessee.

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

Order pronounced in the open court on 05.10.2018.

**Sd/-
(J.SUDHAKAR REDDY)
ACCOUNTANT MEMBER**

Date:- 05.10.2018

Amit Kumar

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1. Appellant- Vimalleshwar Overseas Co., C/o-Sri. S.L.Kochar, Advocate, 5, Ashutosh Chowdhury Avenue, Kolkata-700019.
2. Respondent-ITO, Ward-31(1), 10B, Middleton Row, 3rd Floor, Kolkata-700071.
1. CIT-Kolkata
2. CIT(Appeals)-Kolkata
3. DR: ITAT-Kolkata Benches

Sr.P.S./H.O.O
ITAT, KOLKATA