

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN
BEFORE S/SHRI CHANDRA POOJARI, AM & GEORGE GEORGE K., JM

I.T.A. No.173/Coch/2018
Assessment Year : 2012-13

Muthoot Health Care, Muthoot Building, Kozhencherry-689 641. [PAN:AACFM 7331E]	Vs.	The Deputy Commissioner of Income-tax, Circle-1, Thiruvalla.
(Assessee-Appellant)		(Revenue-Respondent)

Assessee by	Shri R. Srinivasan, CA
Revenue by	Smt. A.S. Bindhu, DR

Date of hearing	04/10/2018
Date of pronouncement	05/10/2018

ORDER

Per CHANDRA POOJARI, AM:

This appeal filed by the assessee is directed against the order of the CIT(A), Kottayam dated 10/04/2018 and pertains to the assessment year 2012-13.

2. The assessee has raised the following grounds:
 1. The officers below were not justified in confirming the disallowance of conveyance and travelling allowance paid to doctors to the extent of 75%.
 2. The officers below failed to appreciate the fact that, having regard to the terms of employment, the doctors are entitled to such reimbursement subject to a cap.

3. As long as payments were held to be genuine, disallowance of a portion of such expenditure was not warranted.

3. The facts of the case are that the assessee claimed Rs.43,49,293/- as expenditure towards travelling and conveyance expenses. The Assessing Officer disallowed an amount of Rs.32,61,970/- out of this expenditure. The assessee was required to furnish the original bills produced by at least 10 doctors based on which the travelling expenses were reimbursed to them. Therefore, the Assessing Officer found that the genuineness and nature of the expenses claimed remained unexplained. Hence, the Assessing Officer held that the claims of the above nature constitute roughly 86% of the expenses debited towards travelling and conveyance for the month of April, 68% of the expenses for the month of May and 83% of the expenses for the month of June. Accordingly, the Assessing Officer disallowed 75% of the amount claimed under the head travelling and conveyance as the genuineness, veracity, nature and business expediency underlying the claim was not established.

4. On appeal, the CIT(A) observed that the Assessing Officer disallowed the part of the expenses related to travelling and conveyance in respect of the payments made to the doctors on the ground that the genuineness of the same could not be proved by the assessee. On perusal of the vouchers representing payments made to the doctors produced by the assessee's Counsel, the CIT(A) observed that these were self made vouchers and no signatures of the doctors

were seen on these vouchers and hence, it was held that the genuineness of the payments was not proved. Before the CIT(A), it was submitted that the total expenditure on account of reimbursement to doctors for the AY 2013-14 was only Rs.19,94,802/- whereas the Assessing Officer disallowed an amount of Rs.32,61,970/-. According to the CIT(A), the method of estimation of disallowance made by the Assessing Officer was not appropriate as the actual expenditure incurred on reimbursement of expenses to the doctors was quantifiable and therefore, directed the Assessing Officer to verify the actual expenditure shown to have been incurred by the assessee towards reimbursement of travelling and conveyance expenditure to doctors and disallow only the actual expenditure shown to have been incurred.

5. We have heard the rival submissions and perused the record. The main contention of the Ld. AR is that the travelling and conveyance expenditure was incurred by the assessee towards reimbursement of the same incurred by doctors and it does not contain any element of profit to the doctors so as to deduct TDS and disallowance of the same is unwarranted. More so, ad-hoc disallowance is not called for. In this case, the CIT(A) remitted the issue to the file of the Assessing Officer and directed the Assessing Officer to verify the actual expenditure said to have been incurred by the assessee towards reimbursement of travelling and conveyance paid to doctors and to disallow the actual expenditure shown to have been incurred. In our opinion, this finding of the

CIT(A) is inappropriate. If the assessee has incurred expenditure towards reimbursement of travelling and conveyance which was paid to doctors , it is to be allowed as it was incurred wholly and exclusively for the purpose of the business of the assessee. It is the duty of the assessee to prove that the expenditure was incurred for the purpose of business. We remit this issue to the file of the Assessing Officer with the observation that the assessee is directed to place necessary evidence in support of the expenditure claimed before the Assessing Officer. Hence, this ground of appeal of the assessee is partly allowed for statistical purposes.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 5th October, 2018.

sd/-
(GEORGE GEORGE K.)
JUDICIAL MEMBER

sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Place: Kochi

Dated: 5th October, 2018

GJ

Copy to:

1. Muthoot Health Care, Muthoot Building, Kozhencherry-689 641.
2. The Assistant Commissioner of Income-tax, Circle-1, Thiruvalla.
3. The Commissioner of Income-tax(Appeals),Kottayam.
4. The Pr. Commissioner of Income-tax, Kottayam.
5. D.R., I.T.A.T., Cochin Bench, Cochin.6. Guard File.

By Order

(ASSISTANT REGISTRAR)
I.T.A.T., Cochin

