

आयकर अपीलिय अधिकरण, "बी" न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI  
श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष  
Before Shri Abraham P. George, Accountant Member &  
Shri Duvvuru RL Reddy, Judicial Member

आयकर अपील सं./I.T.A.No.1615/Chny/2016  
निर्धारण वर्ष/Assessment Year:2008-09

Shri P. Suresh,  
No. 53, Armenian Street, Parrys,  
Chennai 600 050.

Vs. The Assistant Commissioner of  
Income Tax,  
Circle IX,  
Chennai.

[PAN:AAHPS5301F]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Balaji, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri Srinivasa Rao Vana, JCIT  
सुनवाई की तारीख/ Date of hearing : 06.08.2018  
घोषणा की तारीख /Date of Pronouncement : 24.09.2018

**आदेश /O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 13, Chennai dated 22.03.2016 relevant to the assessment year 2008-09. The effective ground raised in the appeal of the assessee is that the Id. CIT(A) has erred in confirming the additions of ₹.7,86,199/- made by the Assessing Officer.

2. Brief facts of the case are that the assessee filed return of income declaring total income at ₹.53,86,140/-. The case was selected for scrutiny and verified the books of accounts as furnished by the assessee against

statutory notices. During the course of reassessment proceedings, the Assessing Officer disallowed certain expenses like salary & wages, travelling & conveyance, miscellaneous expenses and pooja expenses totalling to ₹.7,86,199/- and assessed the income of the assessee at ₹.61,72,339/-.

3. The assessee carried the matter in appeal before the Id. CIT(A). Since the assessee could not furnish pacca vouchers towards the additions made on account of travelling and conveyance expenses, miscellaneous expenses and pooja expenses, the Id. CIT(A) confirmed the additions.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that all the expenses claimed by the assessee were recorded in the regular books of account, which was duly produced and verified by the Assessing Officer. Moreover, it was submitted that the authorities below have not considered the voluntarily added back 10% of car expenses and car depreciation towards assessee's personal use. It was also submitted that the expenses towards wages & salaries, the details of the employees and payment of PF and ESI contributions made to the concerned authorities were duly tallied and as such, arbitrarily rejected the same and prayed for deleting the additions.

5. On the other hand, the Id. DR supported the orders of authorities below.

6. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. The assessee is running a restaurant with four branches. During the course of assessment proceedings, the AR of the assessee furnished computerized books of accounts, bank accounts, VAT returns, ESI, PF, ST paid details, lease agreements, details of staff quarters, rent paid details, TDS on rent paid, copy of agency sale agreement, sample copy of bills for expenses.

6.1 With regard to the claim of expenses under the head Salaries & Wages, the Assessing Officer noticed that some of the supporting vouchers were self made and accordingly, 10% of the expenses claimed were disallowed. Since the details of the employees and payment of PF and ESI contributions made to the concerned authorities were duly tallied with the books of accounts and not at all disputed by the Assessing Officer and accepted the same, the disallowance of 10% of expenses is not at all warranted. Accordingly, the disallowance of ₹.5,58,995/- made by the Assessing Officer and confirmed by the Id. CIT(A) stands deleted.

6.2 With regard to the disallowance of claim of travelling and conveyance expenses at ₹.30,100/-, the Assessing Officer noticed that some of the expenses relates to the assessee's personal use and some of the vouchers are self made vouchers, which are not capable of verification and accordingly, disallowed 10% of the total expenses. The assessee has been

running restaurant with four branches and commuting and transportation of employees from one branch to another was necessitated depending on the needs of each and every branches. Under these circumstances, it is not clear from the assessment order as to how the expenditures related to personal use of the assessee. So far as expenses towards personal use of the assessee is concerned, the assessee has very well voluntarily added back 10% of car expenses and car depreciation towards his personal use and once again disallowance of 10% of the expenses is not at all warranted. In view of the above, the disallowance of travelling and conveyance expenses made by the Assessing Officer stands deleted.

6.3 The next ground relates to disallowance of claim of miscellaneous expenses of ₹.4,812/-. Since the assessee has not produced details and the evidence for the miscellaneous expenses, 10% of the expenses was disallowed and brought to tax. Before the Id. CIT(A) also, the assessee has not produced any evidence. The only submission of the assessee before the Tribunal was that the expenses claimed by the assessee were duly reflected in the books of account. However, the assessee has not furnished any details of miscellaneous expenses. Simply making entries in the books of account is not sufficient to make a claim without any evidence or proper explanation. Accordingly, the disallowance made by the Assessing Officer and confirmed by the Id. CIT(A) stands sustained.

6.4 With regard to disallowance of pooja expenses of ₹.1,92,292/-, by reiterating the submissions as made before the Id. CIT(A), the Id. Counsel for the assessee has submitted that it was general practice of trade for maintaining proper decorum of the hotels in all the branches of the assessee's restaurant, the assessee has decorated with fresh flowers to give good ambiance and to attract the customers. It was also submitted that the cost per branch per day works out to ₹.263/- and it is not possible to get pucca vouchers from the flower venders. We find force in the arguments of the Id. Counsel and the claim of expense appears to be quite reasonable and moreover, the authorities below have not doubted the nature of expense incurred by the assessee. Under the above facts and circumstances, the disallowance made by the Assessing Officer stands deleted.

7. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced on the 24<sup>th</sup> September, 2018 at Chennai.

Sd/-  
(ABRAHAM P. GEORGE)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, the 24.09.2018

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.