

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

**BEFORE SHRI MAHAVIR SINGH, JUDICIAL MEMBER AND  
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.2355/M/2017  
Assessment Year: 2012-13**

DCIT, Central Circle 6(3), 19 <sup>th</sup> Floor, Air India Bldg., Nariman Point, Mumbai - 400021	Vs.	M/s. E-Land Apparels Limited, Office No.509, 5 <sup>th</sup> Floor, Western EDGE-1, Western Express Highway, Magathane, Borivali (E), Mumbai - 400 066 <b>PAN: AACCM 6461E</b>
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Pravesh Advani, A.R.  
Revenue by : Shri D.G. Pansari, D.R.

Date of Hearing : 19.09.2018  
Date of Pronouncement : 27.09.2018

**ORDER**

**Per Rajesh Kumar, Accountant Member:**

The present appeal has been preferred by the Revenue against the order dated 31.01.2017 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2012-13.

2. The only ground raised by the Revenue is against the order of Ld. CIT(A) restricting the disallowance to 2% of the cash expenditure incurred by the assessee as against 5% disallowed by the AO on account of non production of documentary evidence and other records.

3. The facts in brief are that AO during the course of assessment proceedings noticed that assessee has incurred some expenses in cash for which either no bills, vouchers were available or self made vouchers were prepared and after issuing show cause notice to the assessee the AO disallowed 5% of the said expenditure.

4. At the outset, the Ld. A.R. submitted that the issue involved in the present appeal is squarely covered by the decision of the co-ordinate bench of the Tribunal in assessee's own case in ITA No.6330/M/2016 A.Y. 2011-12 order dated 17.01.2018 wherein identical issue has been decided by the co-ordinate bench of the Tribunal directing the AO to make the disallowance at 3% of the cash expenditure and therefore the same should be followed in the current year.

5. The Ld. D.R., on the other hand, did not object to the submission of the Ld. A.R.

6. After hearing both the parties and perusing the material on record, we find that the issue is squarely covered by the decision of the co-ordinate bench of the Tribunal in assessee's own case in ITA No.6330/M/2016 A.Y. 2011-12 (supra). The operative part is reproduced as under:

"12. We noticed that there is merit in the submissions of learned AR. In A.Y. 2008-09 to 2010-11, both the assessee and the Revenue had filed appeals. As in the year under consideration, the Assessing Officer had made adhoc disallowance of 5% of entire amount of expenditure in those years also, even though he proposed to make disallowance from out of expenses incurred by way of cash. The Ld CIT(A) restricted the disallowance to 2%. Since both the parties had filed the appeals challenging the decision of learned CIT(A), the Tribunal could interfere with the decision of Ld CIT(A) and could sustain addition to the extent of 3% of the cash component of the expenditure. However, during the year under consideration, the assessee has accepted the order passed by the learned CIT(A) on this issue. We

have noticed that the Ld CIT(A) has sustained addition to the extent of 2% of the entire amount of expenditure and we are of the view that the disallowance so sustained would meet the objective sought to be achieved by the Assessing Officer. Accordingly, we uphold the order passed by the learned CIT(A) on this issue.”

7. We, therefore, respectfully following the decision of the co-ordinate bench of the Tribunal, direct the AO to disallow the expenditure at 3% of the total expenditure as against the 5%.

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

**Order pronounced in the open court on 27.09.2018.**

**Sd/-  
(Mahavir Singh)  
JUDICIAL MEMBER**

**Sd/-  
(Rajesh Kumar)  
ACCOUNTANT MEMBER**

Mumbai, Dated: 27.09.2018.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.