IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI

BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

ITA No.6139/Del/2015
Assessment Year: 2011-12

Indair Carriers Pvt. Ltd., **Building No.8, 2nd Floor,** **Tower C, DLF Cyber City,** **PAN: AAACI1669L** Appellant		**DCIT , Circle11(1),** **New Delhi.** Respondent

Assessee by	**None**
Revenue by	**Shri Surender Pal, Sr. DR**

Date of Hearing	**29.11.2018**
Date of Pronouncement	**30.11.2018**

ORDER

PER K. NARASIMHA CHARY, JM

Challenging the order dated 18.09.2015 in Appeal No127/2014-15, passed by the Learned Commissioner of Income Tax (Appeals)-4, New Delhi (Ld. CIT(A)), assessee preferred this appeal.

2. Assessee is a wholly owned subsiadiary of UTi (Netherlands) Holding B.V., an inhternational global integrated logistics company providing Air and Ocean freight forwarding, customs brokerage and other

supply chain management services to its clients globally. For the Asstt. Year 2011-12, assessee filed its return of income on 30th November 2011 declaring a total income of Rs.1,80,16,897/- which was subsequently revised by it on 25th March 2013 to claim a tax refund of Rs.3,02,49,651/- after adjustment of TDS credit of Rs.3,62,34,413/-. The said tax return was processed u/s 143(1) of the Income-tax Act, 1961 ("The Act") wherein Indian Carriers was allowed TDS credit of Rs.3,52,23,433/- as against the TDS credit claimed by it in its tax return.

3. Subsequently, during scrutiny learned AO, amongst other things, made an addition of Rs.1,38,190/- and Rs.6,82,935/- by disallowing the stationery and travelling expenses. When the assessee challenged the same before the learned CIT(A) by way of impugned order, has confirmed the same on the ground that the assessee should have produced the details and vouchers before the learned AO when those were required and because of assessee not doing so despite specifically being asked, the learned AO is justified in making such additions. Hence this appeal before us by the assessee.

4. When the matter is called for hearing, no one is present on behalf of the assessee. Notice was issued to the address given in Form No.36. If the assessee is present there, no question of non service of such notice would arise. If for any reason, the assessee is absent on that address, it is for the assessee to make necessary arrangements with the post department to deliver the mail to any authorized person or to re-direct the mail to any temporary address or to detain the mail till he comes back and claim the same. Further, no change of address is notified to the Tribunal also.

Hence, we proceed further to dispose of the matter after hearing the learned DR.

5. It is the submission of the learned DR that when the learned AO required the assessee to produce bills or vouchers supporting the claim for allowing the expenses relating to stationery and travelling, it is incumbent upon the assessee to produce the same and the in the absence of any evidence whatsoever to justify the claims of allowance, the authorities below are justified in disallowing the expenses by 50% and such a finding of the authorities does not invite any interference.

6. We have gone through the record. It could be seen from the assessment order as well as the first appellate authority order, the return was filed on 30.11.2011 but the notice u/s142(1) of the Act was said to have been issued on 14.3.2011. Apparently, it is a typographical mistake. When we read the sentence in the assessment order to the effect that the learned AR made submissions on 24.3.2014, in the lights of the submissions made before the learned CIT(A) as could be seen from the statement of facts submitted before the learned CIT(A), notice u/s 142(1) should have been issued on 14.3.2014. According to the assessee, it was served on him on 16.3.2014 requiring them to submit the details by 24.3.2014. It is, therefore, clear that this case was picked up for scrutiny by issuance of notice u/s 142(1) of the Act just 10 or 12 days prior to the passing of the order on 26.3.2014 and the learned CIT(A) observed that even if the record keeping was outsourced to the third party, one week's time should have been sufficient to comply with the notice u/s 142(1) of the Act. This does not inspire confidence in our mind to believe that a reasonable opportunity is afforded to the assessee. We are, therefore, of the

considered opinion that a reasonable opportunity should have been granted to the assessee for production of the documents as required by the learned AO.

7. Learned AO disallowed 50% of the expenses without estimating the same on any scientific basis. As a matter of fact, there is no finding that the expenses were not incurred. The details of the expenses were furnished to the AO and no discrepancy in the audited account could be identified by the learned AO.In the circumstances, we find it difficult to sustain the addition. We accordingly delete the addition and allow the appeal of the assessee.

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

Order pronounced in the Open Court on 30th November, 2018.

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: November, 2018
VJ
Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

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