



**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.184/ALLD/2018
Assessment Year: 2012-13

Shri Sanjeev Vaish 7, Clive Road Allahabad	v.	Asstt. Commissioner of Income Tax Circle 1 Allahabad
TAN/PAN:AAXPV7397Q		
(Appellant)		(Respondent)

Appellant by:	Shri C. S Bharti, D.R.		
Respondent by:	Shri Praveen Godbole, C.A.		
Date of hearing:	18	12	2018
Date of pronouncement:	19	12	2018

ORDER

PER A. D. JAIN, V.P.:

This appeal has been filed by the assessee against the order of the Id. CIT(A), Allahabad dated 13/3/2018 for the assessment year 2012-13, taking the following grounds:-

- 1. That in any view of the matter assessment made on income of Rs.57,20,084/- by order dated 30.03.2015 passed u/s 143(3) is bad both on the facts and in law.*
- 2. That in any view of the matter disallowance of Rs.15,07,457/- as sustained by learned CIT(A) by restricting the disallowance to 10% as against 30% as disallowed by Assessing Officer is highly unjustified.*
- 3. That in any view of the matter the learned CIT(A) was wrong in restricting the disallowance to 10% without pointing out any defects in books of accounts, each and every bill and voucher produced during assessment proceeding, payment made to genuine person and through cheque and thus simply on adhoc*

basis disallowance as restricted by learned CIT(A) is highly unjustified.

4. That in any view of the matter disallowance of Rs.68,350/-out of different expenses as maintained by CIT(A) as against disallowance of Rs.4,82,229/- by the Assessing Officer thereby reducing the disallowance from 30% to 10% as made is highly unjustified.

2. The assessee filed return disclosing the income of Rs.21,36,670/-. The assessment was completed at an income of Rs.57,20,084/-. The Assessing Officer made various disallowances of expenses on ad-hoc basis, at a uniform rate of 30% of the claim.

3. The Id. CIT(A), by virtue of the impugned order, has restricted the disallowance to 10%. Aggrieved, the assessee is in appeal.

4. Heard. At the outset, Id. A.R. of the assessee has contended that the Assessing Officer had made the disallowances of the expenses claimed, merely on ad-hoc basis, without pointing out any defect in the books of the assessee; that the Id. CIT(A) ought to have deleted the disallowances in toto rather than restricting them to 10%, again on ad-hoc basis, without any defect having been pointed out in the claim of the assessee.

5. The Id. D.R., per contra, has placed reliance on the order under appeal.

6. The facts are not disputed. It is settled law that where the taxing authorities do not point out any defect in the claim of the assessee, nor are the books of account maintained by the assessee rejected, no such ad-hoc disallowance at a whimsical figure can be made and the claim of the assessee requires to be accepted as such. In this regard, reference can be made to the following decisions:-

1. ACIT vs. Allied construction [2007] 106 TTJ 616 (ITAT, Delhi Bench).

2. Seasons Catering Services (P) Ltd. Vs. DCIT [2010] 43 DTR 397 (ITAT Delhi Bench).
3. M/s Kanha Vanaspati Ltd. Vs. JCIT [2006] 7 MTC 339 (ITAT Lucknow Bench).
4. CIT vs. Subhash Chand Agrawal [2013] 58 SOT 122 (ITAT, Allahabad Bench).

7. In view of the above, the grievance of the assessee is found to be justified. It is accepted as such. The additions made are, hence, deleted in their entirety.

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

Order pronounced in the open Court on 19/12/2018.

Sd/-
[T. S. KAPOOR]
ACCOUNTANT MEMBER

Sd/-
[A. D. JAIN]
VICE PRESIDENT

DATED:19th December, 2018

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar