

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**KOLKATA BENCH “C”, KOLKATA**  
**BEFORE SH. J.SUDHAKAR REDDY, ACCOUNTANT MEMBER &**  
**SH. S.S.VISWANETHRA RAVI, JUDICIAL MEMBER**

**ITA No.1464/KOL/2017**  
**(ASSESSMENT YEAR-2008-09)**

Reliance Consortium, 84/1A, Topsia Road(S), Kolkata-700046. PAN-AACCR2744R	Industrial Limited,	vs	ACIT, Circle-1, Bhawan, Chowringhee Kolkata-700069.	Aayakar P-7, Square,
<b>(Appellant)</b>			<b>(Respondent)</b>	
<b>Appellant by</b>		Sh. Arvind Agarwal, Advocate		
<b>Respondent by</b>		Sh.Saurabh Kumar, Addl. CIT, Sr. DR		
<b>Date of Hearing</b>		01.10.2018		
<b>Date of Pronouncement</b>		19.12.2018		

**ORDER**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

This appeal filed by the assessee against the order dated 30.05.2017 passed by CIT(A)-5, Kolkata for AY 2008-09.

2. The assessee is a company, engaged in the business of sales and services of passengers vehicles, spare parts and accessories. It filed its return of income for 2008-09 electronically on 13.09.2008 declaring a loss of Rs.35,70,049/-. The AO passed an order u/s 143(3) of the Income Tax Act, 1961 (in short “Act”) on 20.04.2010 determining the total income of the assessee at NIL by disallowing on an adhoc basis, direct expenses and collection charges. The disallowance of direct expenses was made by the AO on the ground that there was an abnormal increase in expenditure and the assessee failed to submit the details of expenditure. One percent of purchase and One percent of sale amount disallowed. Similarly collection charges were disallowed on adhoc basis, on the ground that there was an abnormal increase in collection charges. The explanation of the assessee

that this expenditure relates to payments made to temporary/casual staff and is in the nature of salary, for Billguri Branch of Rs.19,03,649/- and Malada Branch of Rs.18,25,417/- was rejected on the ground that proper evidence was not produced. Aggrieved the assessee carried the matter before the CIT(A).

3. The CIT(A) agreed with the submissions of the assessee on the issue of adhoc disallowance of direct expenditure, that there is no abnormal increase in expenditure as stated by the AO and it was only a method of accounting of discounts which appeared as if there was abnormal increase. He records that during the year, the discounts given as sales by the assessee, were shown directly as in the P&L A/c expenditure and whereas in the earlier AYs, such discounts were reduced from the sale figure and only the net sales figure appeared with the P&L A/c. The CIT(A) reduced the disallowance to the extent of the discounts claimed by the assessee in the earlier AYs i.e. Rs.47,78,490/- and disallowed the balance claim on the ground of lack of evidence. This ground was partly allowed by the Ld.CIT(A). As regards, adhoc disallowance of collection charges, the CIT(A) in para 4.3 at page 9 of the order held that specific collection charges cannot be subjected to objective verification and in any case such verification would be time consuming. On the ground that such verification would be time consuming he held that he would not interfere with the decision of the AO. He dismissed this ground of the assessee.

4. Aggrieved the assessee filed this appeal on the following concise grounds:-

1. *“For that in view of the facts and circumstances of the case the learned CIT(A) erred in law as well as on facts in allowing part relief to the extent of Rs. 4778490/- out of total expenses of Rs. 8527074/- claimed on account of Discount allowed to the customers and debited under the head Direct Expenses without properly appreciating the submissions and details filed in the course of hearing instead of deleting the entire additions of Rs. 7980919/- made by the Assessing officer out of total expenses claimed at Rs. 10049909/- under the head Direct expenses.*

2. *For that in view of the facts and circumstances of the case that complete details of Direct expenses claimed at Rs. 10049908.96 including Discount allowed to customers amounting to Rs. 8527074/- were furnished before the Appellate Authorities as well as before the Assessing officer during the*

*course of Remand Report and documentary evidences having been produced, the learned CIT(A) was not justified in allowing the claim of Discount allowed to the customers at Rs.4778490/- to the extent of Discount amount of the earlier year and erred in confirming the balance amount of Rs. 3748584/- on mere surmise supposition and on hypothetical reasons and without properly appreciating the submission made before him and the entire estimated additions of Rs. 7980919/- made by the Assessing officer under the head Direct expenses ought to have been deleted in full.*

*3. For that in view of the facts and circumstances of the case the learned CIT(A) erred in law as well as on facts in confirming the entire estimated disallowances of Rs.1729066/- made by the Assessing officer on account of collection charges out of total claim of Rs. 3729066/- without properly appreciating the submissions and details filed in the course of hearing as well as during the course of Remand hearing before the Assessing officer.*

*4. For that the above Grounds of Appeal shall be argued in details at the time of hearing and the appellants crave leave to add to alter and or to amend the aforesaid grounds at or before the hearing of the appeal.”*

5. We have heard Sh. Arvind Agarwal, the Ld. Counsel for the assessee and Sh. Saurabh Kumar, Addl.CIT, Sr.DR for the Revenue. On a careful consideration of the rival contentions, papers on record, we hold as follows:-

As regards, the adhoc disallowance of direct expenses claimed, we find that the CIT(A) had accepted the contention of the assessee that there was no abnormal increase in the direct expenses during the year and it was a matter of method of accounting. The CIT(A) has agreed that in the earlier years, discount on sales was reduced from the sale figure and only net sale was shown in the P&L A/c and whereas in the impugned assessment year, gross sales figure has been shown in the receipts side of P&L A/c and the discounts were shown as direct expenses in the payment side of the P&L A/c. When the CIT(A) has accepted this explanation, there is no basis for disallowing the claim of the assessee. There is no finding that the discounts given were more than the previous year as a percentage of sales. When the percentage of discounts to sales is consistent over the years then the ad-hoc disallowance is bad in law. Just because there are certain difficulty in verification of bills, the discounts cannot be restricted to the absolute figure of what amount was allowed in the immediately previous year. The discount in question is linked to the sales and is business expenditure. We see no reason why the discount should be

restricted by the CIT(A) while agreeing with the contention of the assessee. The adhoc disallowance made by the AO, in our view is factually and legally not sustainable. In view of the above discussion, we allow Ground Nos. 1 & 2 of the assessee and direct the AO to grant deduction of the balance amount of discount claimed by the assessee i.e. Rs.85,27,074/-.

6. The next issue is the adhoc disallowance of collection charges. The CIT(A) confirmed this addition by holding as under:-

*4.3. "It does appear that the AO is not correct in observing that the relevant details were not submitted to the AO. The AO has not used the opportunity of remand to verify the collection charges. A look at the P&L account indicates that the business volume fell in the current year compared to last year. It is, therefore, expected that the collection charges should fall. Instead, the appellant has shown much higher expenses under collection charges. From the nature of the expenses, it appears to the undersigned that the specific collection charges cannot be subjected to objective verification and in any case it will be too time consuming to attempt such verification. I, therefore, have no basis to interfere with the AO's decision on the point. This addition, is, therefore, confirmed and the ground is not allowed."*

7. A perusal of the above demonstrates that the grant of disallowance cannot be sustained. No disallowance can be made on the ground that verification of documents/evidences is time consuming. Admittedly the assessee has produced bills and vouchers as desired by the AO in the remand proceedings, when this fact is not denied, the disallowance cannot be sustained, thus, Ground No.3 is allowed.

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

**Order pronounced in the open court on 19.12.2018.**

**Sd/-**

**(J.SUDHAKAR REDDY)  
ACCOUNTANT MEMBER**

**Sd/-**

**(S.S.VISWANETHRA RAVI)  
JUDICIAL MEMBER**

*Date:-19.12.2018*

*\*Amit Kumar\**

Copy forwarded to:

1. Appellant- Reliance Industrial Consortium Limited, 84/1A, Topsia Road(S), Kolkata-700046.
2. Respondent- ACIT, Circle-1, Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-700069.
3. CIT-Kolkata
4. CIT(Appeals)-Kolkata
5. DR: ITAT -Kolkata Benches

By order

AR/H.O.O  
ITAT, KOLKATA