

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D": NEW DELHI**

**BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No.802/Del/2015
Asstt. Year: 2010-11

Luthra & Luthra Law Offices 9 th Floor & 103, Ashoka Estate, Barakhamba Road, New Delhi – 110 001 PAN AABFL3712B	Vs.	JCIT Range-37 New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri Sumit Mangal, Advocate, Ms. Kritika Prakash, Advocate
Department by :	Smt. Naina Soin Kapil, Sr. DR
Date of Hearing	12/12/2018
Date of pronouncement	20/12/2018

ORDER

PER O.P. KANT, A.M.

This appeal by the assessee is directed against order dated 17/12/2014 passed by the Ld. Commissioner of Income-tax (Appeals)-XX, New Delhi [in short the Ld. CIT(A)] for assessment year 2010-11 raising following grounds:

"1. The order passed by the Learned Commissioner of Income Tax (Appeals) – XX ("CIT(A)) under section 250 of the

Income Tax Act, 1961 ("the Act") is bad in law and on the facts and circumstances of the case.

2. The Ld. CIT(A) has erred in law and in the facts and circumstances of the case by upholding the disallowance of conference expenses (to the extent of Rs. 684,111/-) on an ad-hoc basis on the ground that the said expenses were not incurred for business purposes.

3. The Ld. CIT(A) has erred in law by upholding the disallowance of conference expenses (to the extent of Rs. 684,111/-) by placing reliance on irrelevant facts and considerations.

4. The Ld. CIT(A) has erred in law and in facts and circumstances of the case by enhancing the disallowance of travelling expenses from Rs. 19,91,803/- to Rs. 30,00,000/- on the ground that the said expenses were personal in nature.

5. The Ld. CIT(A) has erred in law in enhancing the disallowance of travelling expenses from Rs. 19,91,803/- to Rs. 30,00,000/- without giving the assessee an opportunity of being heard and by placing reliance on irrelevant facts and considerations.

6. The above grounds of appeals are independent and without prejudice to one another.

7. The appellant craves leave to add /withdraw or amend any ground of appeal at the time of hearing."

2. Briefly stated facts of the case are that the assessee is a Law Firm and earning income under the head profit and gains of business and profession, capital gain and income from other sources. The Ld. Counsel of the assessee submitted before us that the assessee followed cash method of accounting system. For the year under consideration, the assessee filed return of income on 01/10/2010 declaring total income of Rs. 22, 83,29,470/-. The case was selected for scrutiny and notice under section 143(2) of the Income Tax Act, 1961 (in short the Act) was issued and served. In the assessment completed under section 143(3) of the Act on 28/03/2013 ,certain additions/disallowances were made and total income was assessed at Rs. 23,13,23,542/-. On further appeal, the Ld. CIT(A) partly allowed the appeal but enhanced the addition made on travelling expenses. Aggrieved with the addition sustained and enhancement, the assessee is in appeal before the Tribunal raising the grounds as reproduced above.

3. In the grounds raised in the appeal, two disallowances are involved. The first disallowance is in respect of expenses of Rs. 6,84,111/- debited by the assessee under conference expenses. The second disallowance relates to expenses debited under the head travelling expenses.

4. First, we take up the issue of conference expenses. In the year under consideration the assessee claimed conference expenses of Rs. 43,36,066/-against gross receipt of Rs. 68,15,67,895/- as compared to conference expenses of Rs. 9,57,078/- against gross receipt of Rs. 71,51,32,149/-in the immediately preceding assessment year i.e. AY 2009-10. In view of the exceptional increase in expenses on conference, the Assessing Officer called for the detail of the expenses

and noticed that expenses amounting to Rs. 13,68,222/-were incurred on party and dinner, and purchase of expensive watches, jackets, T-shirts's etc. He listed detail of the expenses, which are reproduced on page-3 of the assessment order. For ready reference, said table of expenses is reproduced as under:

<i>Date</i>	<i>Narration</i>	<i>Amount (Rs)</i>
17.06.2009	<i>Watches Qty 2 purchase from MH Watch & Jewellery India Pvt. Ltd. against B/n nil dated 11.06.09 for annual event award given on 08.06.09</i>	1,11,600.00
18.03.2010	<i>Being Purchase of T-Shirts 200 pcs. @225/- for Annual Conference at China against Bill no. BBY-002/09-10 dt. 18.03.10 as per Ms. Ruchi Email attached.</i>	49,172.00
29.03.2010	<i>Being Purchase of Caps 200 Pcs. @ 220/- against Bill no. 229 dt. 24.03.10 Approved by Mr. RKL.</i>	46,200.00
29.03.2010	<i>Being Exp incurred on Promidity Dinner & Food on dt. 27.03.10 against bill no. 171 dt. 28.03.10 (PAN AACCV6837B) as per bill attached</i>	4,33,125.00
31.03.2010	<i>Being Exp, Incurred On Vedio Coverage & Photography for Party on dt. 27.03.10 against bill no. 1759 dt. 29.03.10 approved by Mr. RKL as per bill attached.</i>	8,500.00
29.07.2009	<i>Paid to PEI Media Ltd. Being exp. Incurred by Mr. Mohit Saraf on Amex credit card for the period of May 28 to July 27, 2009 as</i>	5,54,250.26

	<i>per Statement Attached.</i>	
	<i>TOTAL</i>	<i>13,68,222</i>

5. In view of the Assessing Officer personal element was involved in the expenses and thus, according to him same cannot be said as incurred exclusively for business purpose. Accordingly, he disallowed 50% of the amount of Rs. 13,68,222/- which was worked out to Rs. 6,84,111/-. Before the Ld. CIT(A) the assessee filed detailed submission in respect of the above expenses, which the Ld. CIT(A) has summarised in para 5.1 of the impugned order.

6. On the issue of expenses of Rs. 1,11,600/- for two watches, it was submitted before the Ld. CIT(A) that those watches were given as appreciation awards to two employees during the annual conference of the firm. One watch was given to advocate Mr Shishir Jose as appreciation for authoring a book on SEBI TAKE OVER CODE and second watch was given to firm CFO for appreciating his efforts in increasing the collection during the financial year 2008-09. The assessee claimed that giving such award was a normal business practice and accepted business expenditure. However the Ld. CIT(A) noted that watches have been claimed to be given to employees on 08/06/2009 during annual conference, whereas the bill of the watches submitted by the assessee was dated 11/06/2009. The Ld. CIT(A) has noted that no evidence was produced by the assessee that same were given during a special awards ceremony.

7. On this issue, before us the Ld. Counsel reiterated the facts submitted before the Ld. CIT(A) and argued that watches were

distributed for appreciating the extraordinary efforts of the employees. The Ld. Counsel in support of the claim that reward to employees for good work is allowable under section 37(1) of the Act, he relied on the decision of the Hon'ble Delhi High Court in the case of Shriram Pistons and Rings Ltd. versus CIT (2008) 307 ITR 363 (Delhi).

8. On the issue of expenses of Rs. 49,172/-for T-shirts, Rs. 46,204/- for Caps and Rs. 1,65,375/- for jackets, the assessee submitted before the Ld. CIT(A) that these items were distributed during Annual Conference of the firm to the counsels associated with the firm, which is a normal business practice and accepted business expenditure. However, the Ld. CIT(A) noted that no evidence as to the distribution of above items was produced before him.

9. Before us, the Ld. Counsel of the assessee submitted that logo of "L&L " i.e. name of the firm was printed on all merchandise which was distributed as token of appreciation and to promote a sense of belonging to the firm. The Ld. Counsel also submitted that this helped the firm to enhance its visibility of the "L & L" brand for public at large and, therefore, undoubtedly the expenses were business expenditure and not personal expenditure. In support of the claim, the Ld. Counsel relied on the decision of the Hon'ble High Court of Gujarat in the case of CIT Vs Mehsana Distt. Co-operative Milk Producers Union Ltd. (1995) 78 Taxman 563 (Guj).

10. On the issue of expenses of Rs. 4,33,125/-and Rs. 8504/- for Promidity Dinner and Video coverage, the assessee submitted before the Ld. CIT(A) that those expenses were incurred for hosting a party to celebrate achievements of the firm along with its client, when it won " National Law Firm of the Year 2010", "World's Number-One Law Firm", and "Best Overall Firm" awards. In the event clients and

advocates of the firm along with other dignitaries were invited. According to the assessee, this was normal business practice followed for sharing the information about the firm's achievement with its clients. The Ld. CIT(A) however noted that a bill of "Oriental Kitchen" showing expenses of Rs. 4,52,912/- on dinner organised on 27/03/2010 at 09, Asoka Road, New Delhi was produced before him. He observed that how the national award for the year 2010 could be announced in the March, 2010 itself, when the year was yet not over. He observed that the dinner was personal in nature as was apparent from the Video Coverage of the Dinner.

11. Before us the Ld. Counsel submitted that national law firm of the year award was issued by IFLR in the month of March 2010 and other two awards of global project finance/PPP deals and Best overall firm was awarded in 09/10/2009 and 26/02/2010 respectively. According to him, the expenses incurred on the party hosted for celebrating the achievement of the firm, in which client and advocates of the firm along with dignitaries attended, was for the purpose of recognising the exceptional work of its counsel and celebrate the achievement with its distinguished clientele.

12. On the issue of fees paid to PEI media Ltd of Rs. 5,54, 250.26, the assessee submitted before the Ld. CIT(A) that this amount was paid as a sponsorship fee for " the P.E.I. India forum" conducted by PEI media Ltd, wherein dignitaries from industries had attended the event, thus organising a seminar or conference which is attended by firm's clients and other dignitaries from the industry cannot be construed as personal expenses. The Ld. CIT(A) noted that the link of the PEI with the assessee and the business interest thereon had not been specified.

13. Before us the Ld. Counsel submitted that a sponsorship fee was paid to PEI Media Ltd for enhancing the visibility and organisation of the firm. He also submitted that one of the senior partner Sh. Mohit Saraf of the firm attended the event as Speaker, which was held on 7-8 October 2009. According to him, these expenses were incurred as normal business practice in the corporate industry to enhance corporate image of the firm among the industry dignitaries who attended the event, and thus it was a business expenditure. In support of the claim, he relied on the decision of the special bench of Tribunal in the case of JCIT Kolkatta Vs ITC Ltd (2008) 112 ITD 57 (Kolkatta) (SB).

14. On the contrary, the Ld. DR relied on the order of the lower authorities and submitted that despite decrease in gross receipt, there was 350% increase over the conference expenses and on being specifically pointed out by the Assessing Officer, the assessee failed to justify the expenses of Rs. 13,68,222/-as incurred wholly and exclusively for the purpose of business of the assessee, thus, he disallowed 50% of the said expenses. According to her, the assessee even failed before the Ld. CIT(A) to substantiate the expenses incurred wholly and exclusively for the purpose of the business. She submitted that no evidences have been submitted by the assessee to justify claim of distribution of watches to two employees. Similarly, the assessee has failed to justify as how wearing of T-shirts , caps or jackets by the counsel's associated with the firm has helped the business of the assessee and how it was wholly and exclusively for the purpose of the business. On the issue of dinner expenses, also she submitted that Ld. CIT(A) on the basis of the video footage, observed that expenses were in the nature of personal rather than business expenditure.

15. We have heard the rival submission of the parties and perused the relevant material on record, including the paper book filed by the assessee.

17. In the instant case, there is no doubt that expenses on the conference have gone from Rs. 9.57 lakhs as compared to last year to Rs. 43.36 lakhs during the year under consideration, which is an increase of 353%, whereas the gross receipt in the year under consideration of Rs. 68.16 lakh has decreased as compared to gross receipt of Rs. 71.51 lakhs in last year. Out of the total expenses on conference of Rs. 43.36 , the Assessing Officer identified expenses of Rs. 13.68 lakhs on various items like watches, T-shirt's, Caps, jackets, dinner, media event etc and held that those expenses were partly related to personal use and accordingly he disallowed 50% of the expenses amounting to Rs.6,84,111/-.

18. Regarding the expenses on two watches of Rs. 1,11,600/- the assessee has claimed that same were distributed as reward to two employees for their exceptional work for the firm. However, we have noted that the assessee failed to substantiate as how the work of those two employees was exceptional as compared to the other employees of the firm. Before us also the Ld. counsel of the assessee failed to justify as how the CFO contributed in increasing the revenue of the firm. We note that in the year under consideration actually the gross receipt of the firm has fallen. We have also perused the bill of the watches, placed on page 138 of the paper book. This bill has been issued by M/s Watch and jewellery India Private Limited, Taj Palace Hotel , New Delhi in the name of Sh Rajiv Bhasin, Luthera and Luthera, Connaught Place New Delhi. This bill has been issued on 11/06/2009, whereas it is claimed by the assessee that those watches were

distributed in annual conference event held on 08/06/2009. It is not believable as how the watches were distributed without purchasing on 08/06/2009. The assessee has not produced any delivery challan dated 08/06/2009 issued by M/s. Watch and Jewellery India Private Limited. The bill has been issued in individual name of partner. The Ld. CIT(A) also noted that no evidence of distribution of the watches was produced before him. The Ld. Counsel relied on the decision of the Shriram Pistons Rings Ltd. (supra), wherein the Hon'ble High Court has held as under:

“39. Insofar as the present case is concerned, there is nothing to suggest that the good work reward given by the assessee to its employees has any relation to the profits that the assessee mayor may not make. It appears from the order of the Tribunal that it has relation to the good work that is done by the employee during the course of his employment and that at the end of the financial year on the recommendation of a senior officer of the assessee, the reward is given to the employee. Consequently, the 'good work reward' cannot fall within the ambit of section 36(1) (ii) of the Act as contended by the revenue.

40. In CIT v. Autopins (India) [1991] 192 ITR 161, a Division Bench of this Court had occasion to consider payment of various kinds of bonus such as production bonus, attendance bonus and incentive bonus and whether they were within the contemplation of the Payment of Bonus Act, 1965. It was held that such types of bonus as well as ex gratia payment would not fall within the provisions of section 36(1)(ii) of the Act and that they were payments

allowable as revenue expenditure having been incurred for the purpose of business expediency. These payments were not of the type contemplated by the Payment of Bonus Act. It was held that it was an ex gratia payment or some sort of reward given to an employee for the good work done by him and would therefore, fall within the category of expenditure incurred for the purpose of business expediency and for, improving the working of the assessee. Therefore, It would not fall within the meaning of section 36(I)(ii) of the Act but would fall within the ambit of section 37 of the Act.

Accordingly, the third question is answered in the affirmative, in favour of the assessee and against the revenue and it is held that the 'good work reward' is allowable as business expenditure under section 37(1) of the Act."

18. In our opinion, in absence of any evidence of distribution of watches to employees or evidence of rationale of watch distribution to two employees only and other inconsistencies observed above, the ratio of the above decision cannot be applied over the facts of the instant case.

19. Regarding the expenses of Rs. 2,60,747/- on purchase of T-shirts (Rs. 49,172/-), Caps (Rs.46,200/-) and Jackets (Rs. 1,65,375/-) is concerned, the assessee submitted that all these merchandise having logo of the firm were distributed to Counsels during the Annual Day celebration of the firm held in end of March, 2010. The Ld. Counsel submitted that this has enhanced the visibility of the L & L brand for the public at large. In this regard, we note that the lower authorities have recorded that no evidence of distribution of the

merchandise were submitted before them. Before us also no such evidences have been furnished. Further, nothing is brought on record as how the distribution of the merchandise among the counsels has served the business purpose of the assessee firm, which is firm of the Advocates. The Ld. Council has relied on the decision of the Hon'ble Gujarat High Court in the case of CIT Vs. Mehsana Distt. Co-operative Milk Producers Union Limited (supra) where in the Hon'ble Court has observed as under:

“4. So far as question No. 1 is concerned, it stands covered though not directly, by a decision of the Full Bench of this Court in Karjan Co-operative Cotton Sales Ginning & Pressing Society v. CIT [1993] 199 ITR 17 (Guj.) (FB). In that case, it is held that the true test of an expenditure laid out wholly and exclusively for the purpose of trade or business is that it is incurred by the assessee as incidental to his trade for the purpose of keeping the trade going and of making it pay and not in any other capacity than that of a trade. In that case the assessee-society had decided to give two stainless steel cups (tumblers) to its members. It is held by the Court that the expenditure could not be treated as dividend or as ‘rebate’. The expenditure in question was incurred by the assessee-society for preservation of its business and to see to it that its members continue to deal with the society in future in the same way they had done in the past 25 years. The silver jubilee afforded an occasion for the society to incur this expenditure for keeping the members in good humour solely with the object of preserving and bettering its business prospects in future. On that basis the

said expenditure was held deductible as business expenditure.”

20. We note that in the above case, the assessee distributed stainless steel cups to its members on the silver jubilee function and the expenditure was incurred to continue the services of the members, which the assessee received for past 25 years. But in the instant case, there was no such occasion and the Annual Day Celebration, was more a kind of pleasure trip by the members to Beijing, not intended to serve the business purpose and thus facts of the instant case being distinguishable, ratio of the above decision cannot be applied in the instant case.

21. Regarding expenditure of Rs. 4,33,125/- on “Promidity Dinner” and Rs. 8,500/- for “video coverage” of the event is concerned, the Ld. counsel has submitted that expenses are incurred for a party hosted to celebrate the achievements of the firm, in which all clients and counsel of the firm along with various dignitaries were invited. According to the Ld. Counsel the expenses were incurred for recognising exceptional work of the counsel and to celebrate the achievement with its distinguished clients and thus it was not in the nature of personal expenditure. We note that the Ld. counsel has not given any specific date (except as March 2010) on which the firm was awarded as national law firm of the year. Before the Ld. CIT(A), the period for which the award was claimed as given was year 2010 and on which the Ld. CIT(A) raised doubts. The Ld. CIT(A) has also seen the video footage and observed that the dinner party hosted was of personal nature. The assessee has not brought on record anything before us to support that the dinner hosted was for furtherance of the business interest.

22. Regarding fee paid to PEI media Ltd amounting to Rs.5,54,250/- the Ld. Counsel has submitted that the assessee paid sponsorship fee for the event “PEI India Forum” to enhance the visibility and recognition of the firm. The Ld. Counsel relied on the decision of the Special Bench of the Tribunal in the case of JCIT, Kolkata Vs ITC Ltd.(supra) , wherein the Tribunal held as under:

“30. We have given our careful consideration to the rival submissions made before us and have perused the orders of tax authorities. We have also considered the paper book filed by the Id. counsel for the assessee and the case laws relied upon. In this case, the Assessing Officer has disallowed the expenditure observing that these are not incidental to the business of the assessee. However, there is no discussion about the nature of expenditure by the Assessing Officer, whereas the assessee has submitted details in respect of expenditure incurred by it for sponsorship of events. Now-a-days it is common to sponsor some sports or events to advertise the products of the company or the company's corporate image itself. It is not in dispute that the assessee had also incurred the expenditure by sponsorship of events/sports for the purpose of advertising its product/corporate image. Such expenditure is the revenue expenditure incurred for the purpose of business. The Assessing Officer has not given any cogent reason for disallowing such expenditure. Hon'ble Delhi High Court in the case of Delhi Cloth & General Mills Co. (supra) has upheld the order of the Tribunal allowing the expenditure on Football tournament incurred by the assessee. No contrary decision is referred to by the revenue.

In view of the above considering the facts of the case and the arguments of both the sides, in our opinion, the CIT(A) has rightly deleted the disallowance of expenditure on sponsorship of the events made by the Assessing Officer. We uphold the order of the CIT(A) in this regard and reject ground No.5 of the revenue appeal.”

23. The Ld. Counsel contested that in view of the above decision, the sponsoring expenses should be allowed to the assessee. However, we note that in the above cited case, the assessee is a corporate entity engaged in the business activity, as against the assessee which is a firm of advocates, who must be member of the Bar Councils. The Rule 36 of the Bar Council of India Rules states that Indian Law firms and lawyers are not allowed to advertise their practice in the market, both offline or online. Rule 36 of Bar Council of India Rules states that an advocate in India cannot solicit work or advertise, either directly or indirectly by circulars, advertisements, personal communications or interviews, or by furnishing or inspiring newspaper comments or producing photographs to be published in connection with their cases. The signboard or name-plate of a lawyer must be of a reasonable size and must not indicate that he is or has been President or Member of a Bar Council or of any Association or that he has been associated with any person or organisation or that he has been a Judge or an Advocate General.

24. In view of the above, the action of the assessee firm of sponsoring the event for enhancing visibility and recognition of the firm, is in violation of the rules of the Bar Council. The Explanation -1, below the section 37 has specifically bared allowing the expenses

incurred which is prohibited by the law . The relevant explanation is reproduced as under :

“Explanation 1 : For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an office or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.”

25. In the circumstances the case law relied upon by the assessee is not applicable to the facts of the assessee and the expenses incurred by the assessee on a sponsoring fee of “ The PEI India forum” cannot be allowed under section 37 of the Act..

26. In view of the above discussion, we do not find any error in the order of the Ld. CIT(A) on the issue of disallowance of conference expenses of Rs.6,84,111/- and accordingly, we uphold the same. The grounds raised on the issue in dispute are accordingly dismissed.

27. The second issue is regarding the travelling expenses disallowed. The Assessing Officer observed that during the year under consideration, the assessee debited travelling expenses of Rs. 1,99,18,038/-and majority of which was on account of foreign travelling. The Assessing Officer noted increase in travelling expenses of 16.41% as compared to immediately preceding year despite decrease in gross receipts. For increase in the travelling expenses, the assessee explained that the assessee firm provide services worldwide and for that purpose, it is needed to visit various places for client meetings, rendering services outside India, client development etc. According to the Assessing Officer personal element cannot be ruled

out in the expenses. He held that the assessee failed to establish that travelling expenses were incurred exclusively for the purpose of business and accordingly he disallowed 10% of the foreign travelling expenses, which was worked out to Rs. 19, 91, 803/-. Before the Ld. CIT(A), the assessee pointed out that no specific instance was pointed out by the Assessing Officer for disallowance of the expenses. The Ld. CIT(A) after perusal of the detail of the expenses, observed that the assessee claimed Rs. 30 lakhs for advance made to M/s Tomas Cook for travelling by the Counsels of the firm and their family members to Beijing in the month of April 2010. The Ld. CIT(A) made following observation in respect of the expenses of Rs. 30 lakh claimed:

- The amount was paid in advance to M/s. Thomas Cook
- The passports and other documents produced by the appellant showed that the bill included payment for number of family members including children
- The bill produced later of M/s. Thomas Cook showed that the trip was from 1st to 3rd April
- Number of persons had extended their trips for which additional charges had been paid
- There was no evidence that the expense had been incurred for any conference at Beijing

28. According to the Ld. CIT(A) the trip to Beijing was not for official purposes but for personal purposes, and thus not allowable.

29. Before us the Ld. Counsel of the assessee submitted that the firm hosts such annual event to announce the promotions and reward

for the exceptional work of the specified individuals and during the year the firm decided to host its annual day in Beijing. The total invoice amount for this event was of Rs. 49.71 Lacs, but the firm paid an advance of Rs.30 lakh to M/s, Thomas Cook in March 2010 and the balance money as per their invoice of Rs. 19,70,962/-was paid in April 2010. According to the Ld. counsel, the firm maintained the books of accounts in cash basis and thus advance paid in March, 2010 was claimed as expenses in the year under consideration. The learner counsel submitted that the expenses incurred on off-site of workforce are considered as allowable business expenditure. He also submitted that the expenses on account of travel of family members and extension amounting to Rs. 5.13 lakhs was recovered from the respective persons and has not been claimed as expenses in the books of accounts. In support of the claim of the travelling expenses, the Ld. Counsel relied on the decision of the Tribunal in the case of Chrys Capital Investment Advisors India Private Limited versus the DCIT, New Delhi (2011) 45 SOT 71 (Delhi).

30. The Ld. DR on the other hand referred to page 221 of the paper book, which is a copy of final invoice issued by M/s Thomas Cook India Ltd. She submitted that in the said invoice expenses have been raised for bar party, extension of tour of members, date change of some members and their family, air ticket cancellation, urgent Visa charges for some members and the ticket expenses include tickets of infants etc. According to her, the entire trip was only a pleasure trip to Beijing and not in any way connected with the business purpose of the firm. In view of the her, the expenses incurred were no wholly and exclusively for the purpose of the business and thus, rightly enhanced by the Ld. CIT(A) making disallowance of Rs.30 lakh.

31. We have heard the rival submission on the issue and perused the relevant material on record. We note that initially the Assessing Officer disallowed the expenses on estimate basis, however the Ld. CIT(A) has made disallowance of the specific expenses related to tour by the counsels and their family members. The Ld. CIT(A) disallowed the expenses holding the same of personal nature. Before us, the Ld. Counsel has claimed that expenses are incurred for annual day event of the firm, but no documentary evidence of any kind have been produced before us, which could establish that the trip to Beijing was in relation to business activity of the assessee. On perusal of the bill of M/s Thomas Cook India Private Limited, which is available on page 221 of the paper book, it is evident that the expenses have been incurred in relation to extension of the stay, cancellation of the air ticket, bar party, photographers ,smoothies ordered by Mrs Gayathri Luthera in hard rock etc. Thus, in our opinion, the tour was for the entertainment of the counsels and their family members and it has not served any business purpose of the assessee firm. In the case law relied upon by the Ld. Counsel , disallowance was in relation to staff welfare expenses and for arranging get-together of the employees along with the training session. In the instant case nothing has been brought on record that the trip was in relation to any business activity of the assessee firm, and thus ratio of the case law relied upon by the Ld. counsel is not applicable over the facts of the instant case. The assessee has failed to establish that the expenses were incurred wholly and exclusively for the purpose of the business and thus same is not allowable under section 37(1) of the Act.

32. In view of the above discussion, we do not find any error in the order of the Ld. CIT(A) on the issue of disallowance of travelling

expenses and accordingly, we uphold the same. The grounds of the appeal are accordingly dismissed.

32. In the result, the appeal of the assessee is dismissed

Order is pronounced in the Open Court on 20th December, 2018.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Dated: 20/12/2018

Veena (Dragon)

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi