

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC', NEW DELHI
BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER

ITA No. 3744/Del/2018

Assessment Year: 2013-14

P.L. & SONS INFRASTRUCTURE (P) LTD., 555, QUTUBPUR, REWARI-123401 HARYANA (PAN: AAEC9607R)	Vs.	ITO, WARD-2 REWARI
(Appellant)		(Respondent)

Assessee by	Sh. Suresh Anand, CA
Department by	Sh. SL Anuragi, Sr. DR.

ORDER

This appeal is filed by the Assessee against the Order dated 26.3.2018 passed by the Ld. CIT(A), Rohtak relating to assessment year 2013-14 on the following grounds:-

- i) That having regard to the facts and circumstances of the case, the Ld. CIT(A) was wrong in confirming the order of AO holding the disallowance of expenses for Rs. 5,50,430/- under the head loading and unloading expenses.
- ii) That having regard to the facts and circumstances of the case the Ld. CIT(A) has erred in not appreciating the facts and submissions of the appellant.

- iii) That having regard to the facts and circumstances of case, the Ld. CIT(A) completely ignored that the identical issue was already settled by Worthy Jurisdictional Commissioner of Income Tax (Appeals), Rohtak.
- iv) That in any case and in any view of the matter, action of lower authorities in passing the impugned order is bad in law and against the facts and circumstances of the case and without observing the principles of natural justice.
- v) That the errors of the lower authorities being arbitrary, erroneous and illegal, the same deserve to be set aside.
- vi) That the appellant craves the leave to add, amend, modify, delete any of the grounds of appeal before or at the time of hearing and all the above grounds are without prejudice to each other.

2. The brief facts of the case are that assessee filed its return of income declaring total income of Rs. 20,38,780/- on 30.10.2013 and the same was processed u/s. 143(1) of the Income Tax Act, 1961 (in short "Act"). The case of the assessee was selected for scrutiny under CASS norms as per the guidelines issued by the CBDT. Notice u/s. 143(2) of the Act was issued on 03.9.2014. In response to the same, the A.R. for the assessee attended the hearing on behalf of the assessee. Consequent upon change of jurisdiction, again notice u/s. 142(1) & 143(2) of the Act were issued on 10.4.2015 fixing the case for 21.4.2015 and in response thereto, the A.R. for the assessee attended the proceedings from time to

time and filed the details alongwith books of accounts. The AO observed that the assessee has debited expenses of Rs. 55,04,300/- on account of 'loading and unloading expenses'. He observed that the genuineness and authenticity of expense could not be established by the assessee. Hence, 1/10th of the these expenses i.e. Rs. 5,50,430/- added back to the returned income of the assessee and assessed the income of the Assessee at Rs. 42,36,880/- u/s. 143(3) of the Act vide order dated 11.3.2016. Against the assessment order, assessee appealed before the Ld. CIT(A), who vide his impugned order dated 26.3.2018 has partly allowed the appeal of the assessee. Aggrieved with the impugned order, assessee is in appeal before the Tribunal.

3. During the hearing, Ld. counsel for the assessee filed a paper book containing pages 1 to 42 in which he has attached the copy of expenses vouchers in respect of loading and unloading expenses filed before AO & Ld. CIT(A); copy of letter dated 19.5.2017 filed before Ld. CIT(A); copy of letter dated 20.1.2016 filed before AO and Ld. CIT(A)'s order for the AY 2012-13. He submitted that the identical issue was already settled by the Ld. CIT(A), Rohtak. He further submitted that the impugned order is passed without observing the principles of natural justice. Hence, he requested to cancel the orders of the authorities below and allow the appeal of the assessee.

4. On the other hand, Ld. DR relied upon the orders of the authorities below.

5. I have heard both the parties and perused the records especially the impugned order. I find that AO has clearly brought that a perusal of the vouchers submitted by the assessee to claim 'loading and unloading expenses of Rs. 55,04,300/- shows that they were unnumbered; self made vouchers; complete details of persons such as name; address were not available on the vouchers; names and addresses were missing and only a thumb impression was there; there is no mention of the site and vichele numbers on the vouchers. It is a case where the assessee has not been able to substantiate that the expenses have been incurred wholly and exclusively for the purpose of business. This disallowance has rightly been made by the AO as the expenditure could not be substantiated as required u/s. 37(1) of the Act. Therefore, Ld. CIT(A) has rightly confirmed the addition in dispute, which seems to be quite reasonable, hence, the same does not need any interference on my part, therefore, I uphold the action of the Ld. CIT(A) on the issue in dispute and reject the grounds raised by the Assessee.

6. In the result, the Appeal of the Assessee is dismissed.

Order pronounced on 01-01-2019.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date:01/01/2019

SRBhatnagar

Copy forwarded to: -

1. Appellant 2. Respondent 3. CIT 4. CIT (A) 5. DR, ITAT
TRUE COPY By Order,

Assistant Registrar, ITAT, Delhi Benches
