

**IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI**  
**BEFORE SHRI SHAMIM YAHYA, AM AND SHRI RAM LAL NEGI, JM**

ITA No.5481/Mum/2017  
(Assessment Year: 2011-12)

TBZ Nirmal Zaveri Private Limited 62-64, Zaveri House, Opp. Dharam Palace, Hughes Road, Gamdevi, Mumbai-400 021	Vs.	Dy. CIT, Range 5(3), Mumbai
PAN/GIR No. AACCT 7393 J		
<b>(Appellant)</b>	:	<b>(Respondent)</b>

<b>Appellant by</b>	:	Shri Niraj Sheth
<b>Respondent by</b>	:	Shri D. G. Pansari

<b>Date of Hearing</b>	:	26.11.2018
<b>Date of Pronouncement</b>	:	04.02.2019

ORDER

Per Shamim Yahya, A. M.:

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-10, Mumbai ('ld.CIT(A) for short) dated 29.06.2017 and pertains to the assessment year (A.Y.) 2011-12.

2. The ground of appeal read as under:

1. On facts and in circumstances of the case, and in law, the learned CIT(A), Mumbai erred in confirming disallowances made by the Assessing Officer of Rs.4,47,854/- for club expenses which were incurred wholly and exclusively for the running of the Appellant business. The appellant prays that the order of the Commissioner of Income Tax (Appeals)-10, Mumbai be set aside.

3. Brief facts of the case are as under:

During the course of assessment proceedings, the assessee was asked to file details of club membership expenses and explain as to why it should not be

disallowed as non-business expenditure. In response to the same, the assessee has submitted that club expenses incurred by the assessee was for entertaining its customers and have been incurred wholly and exclusively for the running of its business. On perusal of copy of invoices, the A.O. has noticed that various expenses have been incurred and claimed with respect to membership renewals and subscription of Director(s) of the company for various club facilities. He opined that the fact is that corporate memberships are allowed only when a corporate requires for its business purposes that can be used by any nominated employees of the company. However, in the instant case, the A.O. has observed that the membership is linked only with Mr. Nirmal Zaveri (Director) and Mr. Samrat Zaveri (managing Director) and goes along with the individuals. The expenditure has resulted in an exclusive right conferred only upon the above mentioned persons and no other employee of the company. The A.O. held that therefore an amount of Rs.4,47,854/- with respect to club expenses were hereby disallowed on the fact that it was for the exclusive benefit of the director(s) and their families and thus any benefit that the company may avail, if any, may be just incidental or secondary.

4. Upon the assessee's appeal, the Id. CIT(A) confirmed the addition by observing as under:

4.2 I have carefully considered the facts and submissions made by the Id. AR. It is seen from the facts of the case that the appellant has debited Rs.21,61,128/- under club expenses, which includes membership renewal fee, towards use of various club facilities. The AO has also noticed that an amount of Rs.4,47,854/- was incurred for the benefit of two directors viz. Nirmal Zaveri & Samrat Zaveri. Since, such expenditure is only for the personal benefit of the directors and their family members the same was disallowed as

not relating to business. It is seen that, the A.O. was careful in identifying the expenses of relating to business. It is seen that, the A.O. was careful in identifying the expenses of Rs.4,47,854/- out of Rs.21,68,128/- which was incurred for the benefit of the two directors. Since, the appellant has not demonstrated satisfactorily that the amount of Rs.4,47,854/- incurred in the names of Two directors is for the business purpose. I, confirm the disallowance made by the A.O.

5. Against the above order, the assessee is in appeal before us.
6. We have heard both the counsel and perused the records. The ld. Counsel of the assessee submitted the paper book in support of the contention that the club/membership fee disallowed by the A.O. were not for personal benefit. He prayed that the issue may be remitted to the file of the A.O. to examine the issue afresh by taking into account the evidences and submissions of the assessee being submitted hereinunder.
7. The ld. Departmental Representative (ld. DR for short) fairly agreed to the proposition.
8. Accordingly, we remit this issue to the file of the A.O. to consider the same afresh in light of the submissions and evidence being submitted by the ld. Counsel of the assessee. Needless to add, the assessee should be granted adequate opportunity of being heard.
9. In the result, this appeal by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 04.02.2019*

Sd/-  
(Ram Lal Negi)  
Judicial Member

Sd/-  
(Shamim Yahya)  
Accountant Member

Mumbai; Dated : 04.02.2019  
Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai