

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" JAIPUR

श्री रमेश सी० शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RAMESH. C. SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 558/JP/2018
निर्धारण वर्ष/Assessment Year : 2013-14

Shri Arjun Singh S/o Shri Tara Singh, Behind Kohli Medical Store Keshavpura, Kota.	बनाम Vs.	The ITO, Ward-1(2) Kota.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AFRPS 7075 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri D.D. Agarwal (C.A.)
राजस्व की ओर से / Revenue by : Shri Karni Dan (JCIT)

सुनवाई की तारीख / Date of Hearing : 07/02/2019
उदघोषणा की तारीख / Date of Pronouncement: 13/02/2019

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 19.03.2018 of Id. CIT(A), Kota for the assessment year 2013-14. The solitary ground raised by the assessee in this appeal is as under:-

"1. The order of the learned commissioner (Appeals) Kota delete the addition 1515527/- out of total addition of Rs. 2331590/- balance addition of Rs. 816063 required to be deleted."

2. The assessee is an individual and declared business income of Rs. 13,18,370/- in the return of income filed on 09.09.2013. The Assessing Officer while completed the assessment U/s 143(3) on 22.03.2016 has made disallowance of various expenditure to the extent to 10% & 20% respectively on the ground that the assessee has not filed any reply nor any bills or vouchers in support of the claim. On appeal, the Id. CIT(A) has restricted disallowances made by the AO to 5% of the various expenditure by considering the fact that the assessee has not filed any supporting evidence.

3. Before us, the Id. AR of the assessee has submitted that the addition sustained by the Id. CIT(A) is not justified when all the expenditures were incurred by the assessee for the purpose of business of the assessee and the AO has not given the finding that the claim of expenditure is excessive. Further, the assessee has recorded the expenditure in the books of accounts which was not disturbed by the AO and therefore, the ad hoc disallowances made by the AO and confirmed by the Id. CIT(A) is not warranted. He has thus contended that when the assessee has given complete details of the expenditure which also mentions the bill/cheque number then, disallowance is unreasonable and highly arbitrary. Thus, he has pleaded that the disallowance made by the AO and confirmed by the Id. CIT(A) may be deleted.

4. On the other hand, Id. DR has relied upon the orders of the authorities below and submitted that the assessee has failed to discharge its onus to substantiate the claim by producing any supporting vouchers in respect of the expenditure booked in the profit

and loss account. Therefore, the Id. CIT(A) is very reasonable in restricting the disallowance at 5%.

5. We have considered the rival submissions as well as relevant material on record. We note that the Assessing Officer has made various disallowances for want of supporting evidence or any explanation filed by the assessee. The details of the disallowance made by the AO are reproduced as under:-

	विवरणी में शुद्ध आय		रूपये 13,18,370/-
	जोड़ा गया :-विवेचनापरान्त		
1	ब्लास्टिंग मेटेरियल खर्च	1,00,000	
2	Boulder Crushing खर्च	2,53,419	
3	डीजल खर्च व मूल्य ह्रास	5,98,909	
4	Hire Charges	1,72,781	
5	Interest खर्च	2,40,072	
6	मेस खर्च	21,508	
7	Pollution Clearance खर्च	16,800	
8	किराया खर्च	17,600	
9	रिपेयर व मन्टीनेन्स खर्च	3,27,310	
10	वेतन खर्च	3,18,623	
11	टेलिफोन व मोबाईल खर्च	5,500	
12	Sundry खर्च	30,000	
13	Transportation खर्च	45,259	
14	यात्रा खर्च	6,700	
15	ट्यूब व टायर खर्च	98,600	
16	वाहन रिपेयर व मन्टीनेन्स खर्च	46,000	

17	धारा 14ए के तहत अमान्य ब्याज खर्च	32,509	23,31,590 /—
	निर्धारित आय		36,49,960 /—
	अथवा		36,49,960

Some of these disallowances made by the assessee to the extent of 10% of the claim and in some other cases is 20%. We note that though the assessee has challenged the order of the AO before the Id. CIT(A), however, even before the Id. CIT(A), the assessee has failed to produce the desired information, documents and copies of the accounts of the parties. We find that the Id. CIT(A) has deleted 50% of the disallowances made by the AO thereby sustain the remaining 50% out of total disallowance of Rs. 23,31,590/-. The Id. CIT(A) has deleted 50% disallowance except the disallowances of Rs. 32,509/- on account of interest expenditure U/s 14A of the Act which was sustained in full by the Id. CIT(A). Therefore, it is a clear case of failure on the part of the assessee to substantiate the claim of expenditure as the assessee has not produced the relevant supporting documentary evidence. Even no explanation was filed by the assessee before the authorities below, therefore, we do find any error or illegality in the impugned order of the Id. CIT(A) when the disallowance was restricted only to 5% of the various claims.

6. As regards the disallowances made by the AO U/s 14A of the Act on account of interest expenditure the Id. CIT(A) has made a categorical observation that the assessee has not made any specific submissions in respect of the disallowance made the AO. Therefore, in the absence of any contrary facts or material brought on record by the

assesse the disallowance made by the AO on account of interest expenditure U/s 14A of the act was sustained by the Id. CIT(A). In view of the facts and circumstances of the case, we do not find any reasons to interfere with the impugned order by the Id. CIT(A).

In the result, the appeal filed by the assessee is dismissed.
Order pronounced in the open court on 13/02/2019.

Sd/-
(रमेश सी0 शर्मा)
(Ramesh. C. Sharma)
लेखा सदस्य/Accountant Member

Sd/-
(विजय पाल राव)
(Vijay Pal Rao)
न्यायिक सदस्य/Judicial Member

जयपुर/Jaipur

दिनांक/Dated:- 13/02/2019.

*Santosh.

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:

1. अपीलार्थी/The Appellant- Shri Arjun Singh, Kota.
2. प्रत्यर्थी/ The Respondent- ITO, Ward-1(2), Kota.
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त/ CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur.
6. गार्ड फाईल/ Guard File {ITA No. 558/JP/2018}

आदेशानुसार/ By order,

सहायक पंजीकार/Asst. Registrar