

IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

And

SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA Nos361 & 643/Ind/2017
A.Ys. 2012-13 & 2013-14

Akshay Shakti Shiksha Avam
Samaj Kalyan Samiti, Bhopal
PAN – AAAAAA 7213 N

:: Appellant

Vs

DCIT, Central-I, Bhopal

:: Respondent

Assessee by	Shri Hitesh Chimnani, CA
Revenue by	Shri R.S. Ambedker, Sr. DR
Date of hearing	25.3.2019
Date of pronouncement	08.4.2019

O R D E R

Per Shri Kul Bharat, Judicial Member

Both these appeals are filed by the assessee against the different orders of Id. CIT(A)-III, Bhopal, dated 06.3.2017 & 18.8.2017 challenging the confirmations of additions of Rs.18,59,513/- & Rs.9,05,000/- made by the Assessing Officer u/s 69C treating unexplained expenses for the assessment years 2012-13 & 2013-14, respectively.

2. Facts, in brief, are that during the years under consideration, the assessee has debited Rs.18,59,513/- & Rs.9,05,000/- as commission to various persons. The Assessing Officer asked to explain the same. The assessee replied that the assessee

had debited expenses on account of business promotion in P & L account, out of which, the assessee paid the aforesaid amounts against commission to various persons through cash vouchers and every person was paid commission below Rs.2500/-, therefore, TDS had not been deducted. Copies of ledger account of commission and other miscellaneous expenses were filed. The Assessing Officer did not agree with the submission and made the additions mainly on the grounds that the assessee has not submitted evidence of payment of commission and the assessee has also debited bogus expenses on account of commission expenses. Being aggrieved, the assessee went in appeals before the Id. CIT(A), who also confirmed the action of the Assessing Officer on the ground that neither the assessee satisfactorily explained the claim nor filed the required relevant evidence. Still aggrieved, the assessee is before this Tribunal.

3. At the outset of the hearing, ld. counsel for the assessee contended that in none of the cases, the assessee paid commission exceeding Rs.2500/-and in support of such payments, complete books of account, bills/vouchers and ledger account were produced, therefore, these documentary evidences clearly prove that no bogus expenses on account of commission expenses have been debited. Persons who bring students for admission are invariably paid commission not exceeding Rs.2500/- as a matter of management's implied policy prevailed and their receipts are invariably obtained on the spot by the assessee. Small amount not exceeding Rs.2500/- is paid lest it would have resulted into manipulations at the level of staff entrusted which in turn would have spoiled the reputation of the assessee institution. Therefore, the commission per student to the persons who canvas and bring the prospective student for admission was fixed not exceeding Rs.2500/- in each case and for small amount of Rs.2500/-, insistence of production

of postal address, PAN, ITRs, bank statements and confirmations of such persons at the time of processing the admission formalities was impracticable for the assessee for the reason that if these documents would be insisted to be furnished, the assessee institution would have lost a very sizable no. of students and that risk could not be taken or afforded to in business expediency. The Revenue Authorities did not appreciate the facts in proper manner, which is unjustified. On the other hand, Id. Sr. DR relied on the orders of the Revenue Authorities.

4. We have heard both the parties and perused the orders of lower authorities. Before us, the assessee has stating circumstances contended that due to business expediency, such persons are invariably paid commission not exceeding Rs.2500/- as a matter of management's implied policy prevailed and their receipts are invariably obtained on the spot by the assessee and for the small amount of Rs.2500/-, insistence of production of postal address, PAN, ITRs, bank statements and confirmations of such persons at the time of processing the admission formalities was impracticable for the assessee. On query made by us, the learned Counsel for the assessee submitted that now, the assessee can submit all possible evidences like confirmations in support of the claim. We are of the view that the assessee has explained circumstances for non-furnishing of the same before the Assessing Officer. Looking to the circumstances and in the interest of justice, we are of the view that the assessee's matter requires reconsideration at the level of the Assessing Officer afresh. Accordingly, the orders of the Revenue Authorities are set aside and the matter is restored back to the file of the Assessing Officer who will reconsider the relevant documents/submissions in the light of the aforesaid submissions of the learned Counsel for the assessee. Assessee would appear without waiting before the Assessing Officer for further necessary action. Needless

to mention here that adequate opportunity of being heard shall be provided to the assessee and the assessee is also directed to furnish the evidences/submission, if any, in support of the claim and cooperate before the Assessing Officer in this regard. Thus, the grounds raised in the appeals filed by the assessee are allowed for statistical purposes only.

5. Finally, both the appeals filed by the assessee are allowed for statistical purposes only.

Order was pronounced in the open court on 08.4.2019.

**Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER**

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

Dated : 08.4.2019

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Copy to: Assessee/Respondent/CIT(A)/CIT/DR, Indore