

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.7921/DEL/2018  
Assessment Year: 2015-16

<b>Saxon Fluid Sealing Devices, Shop No.102, Gupta Plaza, Bhera Enclave, Paschim Vihar, New Delhi PAN No. AAMFS3731J</b>	<b>Vs</b>	<b>Assistant Commissioner of Income Tax, Circle – 41 (1), New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Pramod Jain, FCA
Respondent by	Sh. S. L. Anuragi, Sr. DR

Date of hearing:	25/04/2019
Date of Pronouncement:	26/04/2019

**ORDER**

**PER N. K. BILLAIYA, AM:**

With this appeal the assessee has challenged the correctness of the order of the CIT(A)-14, New Delhi dated 27.09.2018 pertaining to A. Y. 2015-16.

2. The solitary grievance of the assessee is that the CIT(A) erred in sustaining the addition made by the Assessing Officer

on account of disallowance of Rs.579082/- as remuneration to partners.

3. During the course of scrutiny assessment proceedings the Assessing Officer noticed that the assessee has paid Rs.9,60,000/- to partner A. K. Soni, Rs.9,40,000/- to partner Anshuman Soni, Rs.9,60,000/- to partner Anuj Saxena and Rs.7,20,000/- to partner Mithlesh Saxena.

4. On perusal of the partnership deed dated 01.06.2011 the Assessing Officer found that following remuneration was to be paid to the partners :-

1.	Mr. A. IK. Soni	Rs.60,000/- per month
2.	Mr. Anshuman Soni	Rs.40,000/- per month
3.	Mr. Anuj Saxena	Rs.60,000/- per month
4.	Mrs. Mithlesh Saxena	Rs.40,000/- per month

5. The assessee was asked to explain why the excess amount given to partners as salary should not be disallowed. Vide letter dated 05.12.2017 the assessee explained that by mutual agreement it was agreed by the partners to increase the remuneration without amending the partnership deed.

6. Reply of the assessee did not find any favour with the Assessing Officer who disallowed the excess remuneration of Rs.5,79,082/-.

7. The assessee agitated the matter before the CIT(A) but without any success.

8. Before me the counsel for the assessee drew my attention to the partnership deed which is at pages 6 to 9 of the paper book and pointed out that it has been specifically mentioned in the partnership deed that the partners salary may be revised as mutually agreed by the partners but the same shall remain within the limits prescribed under the Act. It is the say of the counsel that it is not the case of the Assessing Officer that the salary paid to the partners is not as per the limit prescribed u/s 40 (b) (v). The counsel further drew my attention to page 10 of the paper book and pointed out that a supplementary deed was made to increase the remuneration to partners.

9. The DR strongly supported the findings of the CIT(A). It is the say of the DR that the supplementary deed by which the salary has been increased is not a registered document and does not have any evidentiary value.

10. I have carefully perused the orders of the authorities below. It is true that in the partnership deed dated 01.06.2011 the partners have agreed to revised the remuneration as mutually agreed by them. It is equally true that it is not the case of the revenue that the remuneration paid to partners is in excess of the remuneration provided u/s. 40 (v) (b) of the Act. The supplementary deed which contains the revision of salary and endorses the fact that the salaries paid to partners is within the

limit of section 40 (b) (v) of the Act. In my understanding the partnership Act does not require the deed to be registered.

11. Considering the facts of the case in totality I am of the considered view that the assessee is entitled for the remuneration as claimed by it. Therefore, the Assessing Officer is directed to delete the addition of Rs.5,79,082/-.

12. In the result, the appeal is filed by the assessee is allowed.

Order pronounced in the open court on 26.04.2019.

**Sd/-**  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

\*NEHA\*

Date:- 26.04.2019

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	25.04.2019
Date on which the typed draft is placed before the dictating Member	26.04.2019
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	