



आयकर अपीलिय अधिकरण “ए” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, MUMBAI

माननीय श्री सी. एन. प्रसाद, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI C.N. PRASAD, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.7570/Mum/2016
 (निर्धारण वर्ष / Assessment Year: 2006-07)

Anand Automotive Pvt. Ltd. (Formerly known as Anand Automotive Ltd; Anand Automotive Systems Ltd.) 10, Prasad Chambers Opera House, Mumbai-400 004	बनाम/ Vs.	ACIT-Circle-2(1)(1) Mumbai
स्थायी लेखा सं./ जीआइआर सं./ PAN/GIR No. AAACA-3384-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Prasad Bapat-Ld. AR
Revenue by	:	Shri Abdul Hakeem M. - Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	01/05/2019
घोषणा की तारीख / Date of Pronouncement	:	16/05/2019

आदश / O R D E R

Per Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year [AY] 2006-07 contest the order of Ld. Commissioner of Income-Tax (Appeals)-4, Mumbai [CIT(A)], *Appeal No. CIT(A)-4/IT-63/ACIT-2(1)(1)/2015-16* dated 22/09/2016 on following grounds of appeal: -

1. *On the facts and in the circumstances of the case and in law the learned CIT(Appeals) erred in confirming disallowance of INR 33,908/- u/s 40A(3) stating that the assessee has violated provision of section 40A(3).*



2. *On the facts and in the circumstances of the case and in law the learned CIT(Appeals) erred in confirming disallowance of 20% of cash expenditure i.e. INR 8,17,310 stating the huge cash expenditure is unverifiable as the assessee does not have adequately supported bills.”*

2.1 This is second round of appeal before us since the matter of disallowance of repairs & maintenance expenses, in the first round, was set aside to the file of Ld. AO for re-adjudication by this Tribunal vide *para 10* of ITA Nos.6694,7265/Mum/2010 order dated 28/06/2013, a copy of which has been placed on record. Accordingly, assessment u/s 143(3) r.w.s. 254 has been reframed on 18/03/2015 wherein the assessee has again been saddled with aggregate addition of Rs.8,51,218/- on account of repairs & maintenance expenses, which upon confirmation by Ld. first appellate authority vide impugned order dated 22/09/2016, is the subject matter of present appeal before us.

2.2 In the set aside proceedings, upon perusal of details of repairs & maintenance expenses as filed by the assessee, it transpired that the assessee made certain payments in cash exceeding Rs.20,000/- in violation of Section 40A(3) which called for disallowance to the extent of 20% of such expenditure. The details of these expenditure could be extracted in the following manner: -

Sr. No.	Name of the Party	Amount (Rs.)
1	Vishal Electricals	64,395/-
2.	Cash	20,138/-
3.	S.M.Enterprises (Pune)	26,062/-
4.	K.N.G.Wires & Cables	58,945/-
	Total	1,69,540/-

Accordingly, an amount of Rs.33,908/- has been disallowed and added back to the income of the assessee.



2.3 Another addition stem from the fact that certain discrepancies were found in the vouchers and supporting bills submitted by the assessee wherein the assessee had made cash payments ranging between Rs.19,000/- to Rs.20,000/-. The assessee had only produced sample bills / vouchers and the same were not adequately supported. Resultantly, an adhoc addition of 20% against aggregate cash expenditure of Rs.40,86,548/- was made which resulted into an addition of Rs.8,17,310/- in the hands of the assessee.

2.4 Both the additions, upon confirmation by Ld. first appellate authority, is under challenge before us.

3. The Ld. Authorized Representative for Assessee [AR], *Shri Prasad Bapat*, on the strength of documents, placed in the *paper-book*, assailed the additions whereas Ld. DR submitted that the disallowance was justified, under the circumstances.

4.1 We have carefully considered the rival submissions. The assessee, on page nos. 191 to 193 of the *paper-book*, has placed on record the ledger extract of parties listed at serial nos. 1,3 & 4. The perusal of the same establishes that all the payments to the stated parties except cash payment of Rs.12,500/- to *Vishal Electricals* have been made through cheques. The cheque numbers have already been provided in the narrations. Therefore, the lower authorities, in our opinion, erred in noting the payments were in cash, which is not the case here. Therefore, the disallowance of Rs.33,908/- u/s 40A(3) could not be sustained. We order so. This ground stands allowed.

4.2 The Ld. AR has submitted that *adhoc* disallowance of 20% on cash repairs & maintenance expenditure has been made merely on the



perusal of petty sample bills / vouchers, which was not justified. The Ld. AR pleaded for reasonable estimation against the same. Upon careful consideration, we find that the assessee is a corporate entity and the accounts are subjected to audit. Nothing on record suggest that the assessee has incurred abnormal expenditure under this head during impugned AY. Keeping in view the same, we restrict the additions to 5% of aggregate expenditure of Rs.40,86,548/-. The same comes to Rs.2,04,328/-. The balance addition stands deleted. The ground stand partly allowed.

5. The appeal stands partly allowed in terms of our above order.

Order pronounced in the open court on 16/05/2019.

Sd/-

(C.N. Prasad)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 16/05/2019
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.