

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH: AGRA**

**BEFORE SHRI C.M. GARG, JUDICIAL MEMBER, AND
DR. MITHA LAL MEENA, ACCOUNTANT MEMBER**

**I.T.A No.689/Agra/2018
(ASSESSMENT YEAR: 2015-16)**

M/s Brij Autos, 5/73 Madia Katra, Mathura Road, Agra. PAN: AADFB9319E (Appellant)	Vs..	ITO, 1 (1)(1), Agra. (Respondent)
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Appellant by	Shri Navin Gargh, Adv.
Respondent by	Shri Waseem Arshad, Sr. DR.

Date of Hearing	11.04.2019
Date of Pronouncement	31.05.2019

ORDER

Per Dr. M.L. Meena, A.M.:

This appeal, by the assessee is directed against the order dated 21.06.2018 passed by the Commissioner of Income Tax (Appeals)-1, Agra, (hereinafter referred to as 'the CIT(A)'] in respect of Assessment Year 2015-16 wherein the assessee has challenged the confirmation of impugned additions made by the Assessing Officer ("the AO" in short) on account of disallowances of expenditure debited to its profit and loss account as per grounds of appeal on record.

2. The assessee is a partnership firm carrying on the business of real outlet of "Bharat Petroleum Corp. Ltd.", a petrol pump. The addition of Rs.6,09,878/- was made by the AO against excess claim of expenses under various heads.

3. The one of the expenditures pertains to bonus expenses of Rs.29,113/-. The AO rejected the plea of the assessee whereby claiming the payment of bonus dated 22.04.2010 for the year assessment year 2015-16, the year under consideration. He further observed that the documentary evidences produced by the assessee does not mention any date of any short, not even on the attached bonus sheet wherein the signatures are found written. Thus, the AO held that the paper evidence shown cannot be treated as relevant evidences nor other excuses given were credible for the claim of expenses and thus, added these expenses as undisclosed income to the returned income of the assessee (Assessment Order Pg. 9).

4. The Id. CIT(A) has confirmed the addition by observing that the assessee has not produced the bills and vouchers before the AO in respect of expenses chosen for disallowances nor any additional evidence has been brought to be admitted. It is seen that the CIT(A) has noted from assessment folders nine paged order sheet that several opportunities was given by the AO to the appellant assessee to produce the evidence in support of the expenses and despite those, bills and vouchers were either not produced or partially produced in respect of the expenses identified by the AO for disallowance. While the reproducing scanned copies of the nine pages of the said order sheet from pages 19 to 29 of the impugned order,

further noted that it is relevant that appellant's AR's have put in their signatures at the end of each order sheet entry.

4.1 On perusal of the written submission dated 14.06.2018, the CIT(A) noted that copies of some bills and vouchers in support of some expenses under question have been produced, and on examination of the same, he was not convinced. He concluded that on perusal of assessment record the copy of bills and vouchers produced are not reliable and certainly not admissible as credible evidence. Considering the peculiar facts of the case where the appellant had already voluntary disallowance of Rs.13,927/- for personal use under the head of vehicle expenses; the disallowances out of car running expenses is to be reduced by the same amount. In conclusion the Id. CIT(A) has confirmed the 1/10 of the said expenses as reasonable considering the peculiar facts of the case.

5. The Id. Counsel for the assessee has reiterated the submission made before the Id. CIT(A). He submitted that the observation of the Id. CIT(A) with reference to the expense vouchers is incorrect and perverse because he has neither discussed nor verified the material evidence on record being furnished in the form of copy of the ledger A/c in particular. In order to support it case, the counsel for the assessee has filed a paper book of 120 pages including copy of ledger A/c, and documentary evidences regarding the expenses debited to the profit and loss A/c.

5.1 The Id. AR further submitted that the observation of the observation of the Id. CIT(A) vouchers of expenses was incorrect as these expenses have been examined by the assessing officer in the course of scrutiny at length in

view of the audited books of accounts and extent of the turnover of the business of a petrol pump.

7. The Id. DR has supported the impugned order.

8. Heard, it is undisputed facts that the assessee has claimed multiple expenses debited under various head in the profit and loss A/c. The assessee has made an attempt to demonstrate that the expenses have been claimed by the assessee firm for its business purpose with the support of Paper Book of 120. The volume of evidence as per the aforesaid assessee's paper book, with the corroborative evidence, the ledger in particular, is required to be examined and verified either at the level of the Assessing Officer or the Ld. CIT(A) regarding the disputed expenses claimed by the assessee. Under the circumstances, though the Id. CIT (A) has given a finding on lump sum disallowance @ 10 % out of total of the disallowance of the expenses made by the AO, however he did not discuss the basis of such disallowance in the impugned order that how he has arrived at such finding in restricting the disallowances of the expenses to Rs.5,86,096/- without even referring the individual head of expenditure as being discussed in the Assessment Order.

9. Considering the principles of natural justice, we are of the opinion that the appellant assessee should be given an opportunity to present his case before the AO in the light of the evidences brought on record vide paper book dated 10/04/2019, copy of ledger account and bills and vouchers regarding the disputed expenses Claimed. In the Act, it is the assessing officer who is competent authority to examine and verify the books of

accounts, the ledger and bills and vouchers in respect of the expenses debited by the assessee to crystallize its actual claim.

9. In view of the matter, the interest of the justice would be served if the issue of claims of expenses is restored to the Ld. AO for afresh examination in the light of our observation. Accordingly, the issue of expenses is restored to the AO to adjudicate the issue of claim of each expense afresh after giving proper opportunity of being heard to the assessee. No doubt, the assessee shall cooperate in the fresh proceedings before the AO. Thus, the assessee's grounds of appeal are allowed for statistical purpose.

10. In the result, the appeal is allowed for statistical purpose.

Order pronounced on 31/05/2019 under rule 34(4) of ITAT Rules, 1963.

**Sd/-
(C.M. Garg)
JUDICIAL MEMBER**

**Sd/-
(Dr. M. L. Meena)
ACCOUNTANT MEMBER**

AKV

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT AGRA