



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

S.P.No.05/CTK/2019
ITA No.27/CTK/2019
Assessment Year : 2013-14

Purnima Sahu, Plot No.203 & 204, Kharvel Nagar, Unit- III, Bhubaneswar.	Vs.	DCIT, Circle 4(1), Bhubaneswar
PAN/GIR No.		
(Appellant)	..	(Respondent)

Assessee by : Shri B. Agarwal, AR
Revenue by : Shri Subhendu Dutta, DR

Date of Hearing : 13/06/ 2019
Date of Pronouncement : 01/07/ 2019

ORDER

Per Laxmi Prasad Sahu, AM

This is an appeal filed by the assessee against the order of the CIT(A)-2 Bhubaneswar dated 23.3.2018 for the assessment year 2013-14.

2. The assessee has also filed stay petition for grant of stay of outstanding demand till disposal of the appeal of the assessee filed before the Tribunal.

3. At the time of hearing, Id A.R. of the assessee did not press the stay petition and requested to dispose of the appeal filed by the assessee against the order of the CIT(A)-2, Bhubaneswar.

4. In view of above, we dismiss the stay petition filed by the assessee and proceed to adjudicate the appeal filed by the assessee against the order of the CIT(A).

5. The sole grievance of the assessee raised in the grounds of appeal that the CIT(A) is not justified in estimating the disallowance at 20% of the total expenses in respect of business promotion expenses and making & repairing charges.

6. At the time of hearing, Id A.R. submitted that both the authorities below are not justified in estimating the disallowance at 20% of the total expenditure claimed by the assessee. He submitted that the assessee has maintained proper books and accounts and vouchers in respect of all expenses. He submitted that the assessee has also produced ledger accounts before the Assessing Officer but he ignored the same without any basis and passed the assessment order without affording proper opportunity of hearing. He submitted that TDS has been deducted and paid for the total amount. Hence, he submitted that the estimation of disallowance is not just and proper.

7. On the other hand, Id D.R. justified the orders of lower authorities.

8. After hearing the rival submissions and perusing the orders of lower authorities, we find that the assessee is an individual and derives income from jewellery business. The assessee had claimed business promotion expenses of Rs.4,22,209/- but the AO disallowed 20% of the expenses. Similarly, as against claim of Rs.29,37,698/- out of repairing and making charges, the assessee could not submit any documentary evidence in respect of claim of Rs.2,77,239/-, therefore, the AO disallowed the same. On appeal, the action of the AO was upheld.

9. We find that that the Assessing officer has not rejected books of account while estimating the disallowance. We also find that the Assessing Officer has not given any reason for disallowing the expenses. Simultaneously, we observe that considering the nature and volume of business activities, we concur with the views of the Assessing officer that the genuineness of the expenditure cannot be accepted outrightly. Therefore, under the totality of the facts and circumstances of the case and the turnover of the assessee, the estimation at 20% determined by the AO is on higher side. Hence, in order to render justice, we restrict the

disallowance to 10% in respect of business promotion expenses and in respect of making & repairing charges, the estimation is restricted to 50% which comes to Rs.1,38,620/-.

10. In the result, appeal of the assessee is partly allowed and stay petition is dismissed.

Order pronounced on 01/07/2019.

Sd/-
(Chandra Mohan Garg)
JUDICIALMEMBER

sd/-
(Laxmi Prasad Sahu)
ACCOUNTANT MEMBER

Cuttack; Dated 01/07/2019
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Purnima Sahu, Plot No.203 & 204, Kharvel Nagar, Unit-III, Bhubaneswar
2. The respondent: DCIT, Circle 4(1), Bhubaneswar
3. The CIT(A)-2, Bhubaneswar
4. Pr.CIT- 2, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack