

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad Benches, 'B' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri S. Rifaur Rahman, Accountant Member**

**ITA No. 564/Hyd./2018
A.Y: 2014-15**

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| M/s Hansa Products 22-2-354, Hussaini Mohalla Yawar Manzil Hyderabad. PAN: AABFH9788B | Vs | Income Tax Officer Ward 7(1) Hyderabad |
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(Appellant)

(Respondent)

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| For Assessee : | Shri D.V.Anjaneyulu, AR |
| For Revenue : | Sh. M.H. Naik, DR |

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| Date of Hearing: | 22.07.2019 |
| Date of Pronouncement: | 31/7/2019 |

ORDER

PER P. MADHAVI DEVI, J.M.

This is assessee's appeal for A.Y. 2014-15 against the order of CIT(A)-8, Hyderabad dated 27th Feb., 2018.

2. Brief facts of the case are that the assessee is a firm engaged in the business of manufacture of leather products. It filed its return of income for the A.Y. 2014-15 electronically on 12.11.2014 admitting total income of Rs.58,46,820/-. The same was processed u/s 143(1) of the Act on 28.07.2015.

2.1. There was a survey u/s 133A of the I.T. Act, 1961 in the business premises of the assessee on 21.01.2014 and therefore, the case falls under compulsory scrutiny and accordingly notice u/s 143(2) of the Act was issued and served on the assessee. The assessee was asked to furnish the books of accounts, purchase and sale bills and vouchers for expenses. The assessee submitted some of the bills, but the A.O.

observing that the assessee has not furnished all the relevant details, completed the assessment u/s 144 of the Act by rejecting the books of accounts and estimating net profit at 20% of the gross sales. Further, the assessee had admitted a sum of Rs.6 lakhs during the course of survey and accordingly offered the same also in the return of income filed by it. The A.O. accordingly assessed total income at Rs.8,26,132/- and brought it to tax.

3. Aggrieved, assessee preferred appeal before the CIT(A) who granted partial relief to the assessee. The CIT(A) also held that estimation of income at 20% of gross receipts is on the higher side. However, he observed that the assessee has made payments without TDS and, therefore, disallowance u/s 40(a)(ia) is called for. He also observed that the assessee has incurred expenditure of Rs.2,68,500/ towards the partner's son's marriage whereas it was claimed as welfare expenditure for employees. He, therefore, directed that the disallowance of interest payments to NBFCs without TDS of Rs.11,92,544/- is to be disallowed u/s 40(a)(ia); the claim of Rs.1,96,850/- out of total staff welfare expenses of Rs.2,68,500/- is to be disallowed as not incurred for business purposes; and 25% of car maintenance expenses to be disallowed for personal use by partners.

4. Against this order of the CIT(A), the assessee is in appeal before us raising following grounds of appeal.

"1. The order of the CIT(A) is erroneous in law, contrary to the facts and probabilities of the case also against the principles of equity and natural justice.

2. The CIT (A) in one way accepting, rejecting the books of accounts u/s 145 is untenable in law and in another way directing the Assessing authority to assess the interest income Rs.11,92,544/- the interest payment to recognized NBFCs, though the provisions of sec.40(a)(ia) r.w.s 201(1), the interest payments are allowable deductions subject to submission of prescribed form 26P and further other disallowances of Rs.2,68,500/- as gifts in occasion of partners sons marriage and 25% of car maintenance is totally unjustified and unwarranted both in law and facts.

3. *The CIT[A] sustaining the addition of Rs.2,68,500/- represents staff welfare measures for employees of the firm in the occasion of partner's son's marriage by saying AR fairly admitted that it pertains to gifts, though such mission never made either in writing or oral. Therefore the addition shall be deleted.*

4. *The CIT [A] direction towards disallowance of 25% of car maintenance towards personal use on adhoc basis without any base or evidence, though the entire maintenance incurred wholly and exclusively for the purpose of business. Hence, such addition shall be deleted.*

5. *For these and other reasons that may be urged at the time of hearing, the appellant prays the Honorable Tribunal kindly delete the additions sustained by the CIT[A].”*

5. The Ld.Counsel for the assessee, while reiterating submissions made by the assessee before the AO and CIT(A), has submitted that NBFCs have offered the income to tax and has accordingly issued the Certificates which are now filed before us as additional evidence. He, therefore, prayed for admission of the same and to be remanded to the AO for verification of the same.

6. The Ld.D.R. also agreed for this since this is a new evidence filed by assessee and also goes to the root of the matter.

7. In view of the same, we deem it fit and proper to admit copies of Certificates issued by NBFCs placed in the paper book and direct the AO to verify the same and if it is found that the said companies has offered the income to tax in their hands, then no disallowance u/s 40(a)(ia) shall be made in the hands of the assessee.

Ground of appeal no.2 is accordingly allowed for statistical purposes.

8. As regards ground nos. 3 and 4 are concerned, the Ld.Counsel for the assessee submitted that the assessee has voluntarily admitted a sum of Rs.6 lakhs during the course of survey and has also returned the same and, therefore, AO should be directed to telescope the same against these disallowances.

8.1. Ld.DR was also heard.

9. We find that a sum of Rs.2,68,500/- was incurred by assessee towards marriage of partner's son and, therefore, it cannot be said to have been incurred for purpose of business. Therefore it has rightly been disallowed.

10. As regards disallowance of 25% of car maintenance expenses, we direct AO to telescope the same, from the additional income of Rs.6 lakhs returned by the assessee.

Thus, Ground of appeal no.3 is rejected and ground of appeal no.4 is partly allowed.

11. In the result, assessee's appeal is partly allowed.

Order pronounced in the Open Court on 31st July, 2019.

Sd/-

**(S. Rifaur Rahman)
Accountant Member**

Sd/-

**(P. Madhavi Devi)
Judicial Member**

Dated: 31st July, 2019.

*GMV

Copy to:

1. M/s Hansa Products, 22-2-354, Hussaini Mohalla, Yawar Manzil, Hyderabad.
2. ITO, Ward 7(1), Hyderabad.
3. Commissioner of Income Tax(A)-8, Hyderabad.
4. Pr.CIT, Hyd.
5. DR, ITAT, Hyderabad.
6. Guard File.

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ITA No.564/Hyd./2018 AY: 2014-15
Hansa Products, Hyd.

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| 1. | Draft dictated on | 24/07/19 |
| 2. | Draft placed before the author | 29/07/19 30/07/19 |
| 3. | Draft placed before the second Member | |
| 4. | Draft approved by second Member | |
| 5. | Approved Draft comes to SrPS | |
| 6. | Kept for Pronouncement | 31/7/19 |
| 7. | File sent to Bench Clerk | |