

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI D. KARUNAKARA RAO, AM AND
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No.389/PUN/2017

निर्धारण वर्ष / Assessment Year : 2012-13

SKK Steel Enterprises Private Limited.
286, Victoria Over bridge Road,
Darukhana, Reay Road,
Mumbai-400 010.
PAN : AAJCS2912D

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,
Panvel Circle, Panvel,
Dist. Raigad.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Tejinder Singh
Revenue by : Mrs. Shabana Parveen

सुनवाई की तारीख / Date of Hearing : 30.07.2019
घोषणा की तारीख / Date of Pronouncement : 30.07.2019

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from the order the Ld. CIT(Appeals)-2, Thane dated 24.11.2016 for the assessment year 2012-13 as per the grounds of appeal on record.

2. The crux of the grievance of the assessee in this appeal is with regard to ad-hoc disallowance of Rs.15,97,830/- @ 5% of the miscellaneous expenses claimed in the Profit & Loss account.

3. The brief facts in this case are that the assessee debited total expenditure of Rs.3,19,56,578/- under the head "Miscellaneous Expenses". During the course of assessment proceedings, the assessee was asked to furnish credible documentary evidences to substantiate the expenses claimed under this head. The assessee furnished requisite details and on perusal of the same, the Assessing Officer noticed that some of the expenses were incurred in cash, accounted through self made vouchers and some vouchers were unsigned. In order to prevent leakage of revenue, the Assessing Officer made ad-hoc disallowance of Rs.15,97,830/- i.e. 5% of total expenses of Rs.3,19,56,578/- debited under the head "miscellaneous expenses" and added to the total income of the assessee.

4. The Ld. CIT(Appeals) as per detailed reasons as appearing in his order had upheld 5% disallowance of the total expenses made by the Assessing Officer.

5. At the time of hearing, the Ld. AR of the assessee reiterated the submissions placed before the Assessing Officer as well as before the Ld. CIT(Appeals). He further placed reliance on the decision of the Hon'ble Gujarat High Court in the case of Sayaji Iron and Engg. Co. Vs. CIT, 2002 253 ITR 749 (Guj.) and submitted that in case of a limited company there cannot be anything as personal expenses because a limited company by its very nature cannot have any personal use. The Ld. AR, therefore, prayed for deletion of addition.

6. Per contra, the Ld. DR emphasized on the facts on record that on scrutiny of the details of expenses it was clearly found that some of these expenses were through self made vouchers while some vouchers were unsigned and made in cash, therefore, the genuineness of these expenses does not stand verified fully . Thus, Ld. DR prayed that 5% disallowance of the total expenses should be sustained.

7. We have perused the case records and heard the rival contentions. That on examination of the facts on record and from the order of the Assessing Officer as well as the Ld. CIT(Appeals), it is crystal clear that expenses were incurred which are not doubted by the Department. Regarding credibility of the documentary evidences furnished, some of the expenses were found to be incurred in cash, accounted through self made vouchers and some were unsigned.

Taking the totality of facts and circumstances in this case, we are of the considered view to meet ends of justice, the addition of Rs.50,000/- would be appropriate under this head. Accordingly, we set aside the order of the Ld. CIT(Appeals) and direct the Assessing Officer to make the total disallowance of Rs.50,000/- on this head while providing appeal effect to this order.

8. In the result, appeal of the assessee is partly allowed.

Order pronounced on 30th day of July, 2019.

Sd/-
D. KARUNAKARA RAO
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30th July 2019.

SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-2, Thane.
4. The Pr. CIT-2, Thane.
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	30.07.2019	Sr.PS/PS
2	Draft placed before author	30.07.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		