

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "D" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI T.S. KAPOOR, ACCOUNTANT MEMBER

ITA.No.2920/Del./2016
Assessment Year 2010-2011

M/s. Nijhawan Travel Service Pvt. Ltd., F-53, Bhagat Singh Market, New Delhi – 110001 PAN AAACN0150D	vs.	The Addl. CIT, Range-13, New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri A.K. Srivastava, C.A.
For Revenue :	Shri Naina Soin Kapil, Sr. DR

Date of Hearing :	05.08.2019
Date of Pronouncement :	05.08.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-6, Delhi, Dated 01.02.2016 for the A.Y. 2010-2011.

2. We have considered the rival submissions and perused the material on record.

3. Learned Counsel for the Assessee did not press Ground No.4, the same is dismissed as not pressed.

4. On Ground No.1, assessee challenged the Order of Ld. CIT(A) in upholding the addition of Rs.1,16,353/- on account of travelling expenses.

5. The A.O. noted that assessee has claimed Directors Travelling Expenses of Rs.6,82,484/-. The assessee explained that Smt. Lalita Nijhawan w/o. Shri Sham Nijhawan was an employee of the company. He could not offer any explanation as to why she was required to accompany with the husband on business trip as an employee of the company. The A.O. accordingly disallowed Rs.1,16,353/- under the Head "Directors Travelling Expenses". The assessee submitted before the Ld. CIT(A) that Smt. Lalita Nijhawan is major shareholder and an employee of the assessee company and wife of the Director Shri Sham Nijhawan. The assessee pleaded that she was required to visit out station many times. The Ld. CIT(A) however noted that no evidence/details regarding her business transacted by her during the foreign visit have

been furnished. Therefore, addition was confirmed and this ground of appeal of assessee was dismissed.

6. Learned Counsel for the Assessee reiterated the submissions made before the authorities below and submitted that she got salary of Rs.4,20,000/- [PB-28]. He has submitted that she is closely associated with company's business and overseeing car rental business and her presence was necessary for business purposes outside India. He has referred to PB 43 to 45 of the PB. In support of his explanation, he relied upon Order of ITAT in the case of Glaxo Laboratories (India) Ltd., vs. ITO 26 TTJ 214 (SB) (Bom.). He has also relied upon Judgment of Hon'ble Madras High Court in the case of CIT vs. Irbaz Shoes Company 371 ITR 215 (Mad.). He has also submitted that in the tax audit report, auditor has not reported anything any personal expenses in nature.

7. On the other hand, Ld. D.R. relied upon Orders of the authorities below.

8. We have considered the rival submissions and do not find any merit in this ground of appeal of assessee. No evidence or details have been produced by the assessee before the authorities below as to what was necessary for Smt. Lalita Nijhawan to visit Abroad. Since assessee claimed business expenditure, therefore, assessee shall have to prove that expenses have been incurred wholly and exclusively for the purpose of business. In the absence of any evidence on record for the purpose of personal visit to Abroad by the wife of the Director of the assessee company, the same cannot be allowed as business expenditure. An employee who is getting small salary of Rs.4,20,000/- per annum, it is difficult to believe that huge expenses would be spent for her visit Abroad. Assessee made only general explanation that she was associated with travelling business, but, it is not supported by any evidence or material on record. Ground No.1 of the appeal of Assessee is accordingly dismissed.

9. On Ground Nos. 2 and 3, assessee challenged the addition of Rs.2,89,410/- on account of business promotion expenses.

10. The A.O. noted that assessee has an Amex Corporate Card for the use of only two Directors i.e., Shri Sham Nijhawan and his son Shri Arjun Nijhawan and an employee Smt. Lalit Nijhawan w/o. Shri Sham Nijhawan. Most of the expenses are booked through the Amex card. On an examination of the expenses incurred, it was seen that they relate to mainly restaurant expenses. The assessee explained that these expenses relate to 16 entitles amounting to Rs.74,000/- but could give no explanation for the remaining expenses. These expenses considered mainly of bills of high-class restaurants in Delhi over the year and were found to be personal in nature. The A.O. accordingly disallowed Rs.2,89,410/-. The assessee stated before the Ld. CIT(A) that assessee had not kept details/records regarding the purpose for which restaurant expenses have been incurred. The Ld. CIT(A), accordingly, dismissed this ground of appeal of assessee.

11. Learned Counsel for the Assessee submitted that authorities below failed to appreciate the nature of business of assessee and the type of class of product which assessee deals in. He has submitted that auditor has not reported in the tax audit report of any expenses which are personal in nature.

12. On the other hand, Ld. D.R. relied upon the Orders of the authorities below.

13. After considering the rival submissions, we do not find any merit in these grounds of appeals of the assessee. The assessee could explain the issue relating to expenses of Rs.74,000/- only before A.O, however, no explanation has been given for remaining amount. It is an admitted fact that the entire expenses have been incurred for payment of restaurant bills. These clearly appear to be personal in nature which assessee has debited as business expenditure for which no bills/explanation or evidence have been furnished. Merely because auditor has not given any remarks that expenses are not personal in nature, would not entitle the assessee to claim deduction of the

expenditure under section 37 of the I.T. Act. Burden is upon the assessee to prove that expenses have been incurred wholly and exclusively for the purpose of business. The assessee further failed to prove the same. Therefore, Ground Nos. 2 and 3 of the appeal of assessee has no merit and the same are accordingly dismissed.

14. In the result, appeal of assessee dismissed.

Order pronounced in the open Court.

Sd/-
(T.S. KAPOOR)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 05th August, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'D' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.