

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'D' BENCH,  
NEW DELHI**

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

**ITA No. 72/DEL/2016  
Assessment Year 2011-12**

Kamla Kant & Co. 575, Double Storey, 1 <sup>st</sup> Floor, New Rajendra Nagar, New Delhi-110060	DCIT, CC-8, New Delhi
<b>PAN-AAFFK2884D</b>	
Appellant	Respondent

Assessee by	None
Revenue by	Smt. Naina Soin Kapil

<b>Date of Hearing</b>	<b>08/08/2019</b>
<b>Date of Pronouncement</b>	<b>09/08/2019</b>

**ORDER**  
**PER T. S. KAPOOR, ACCOUNTANT MEMBER,**

This is an appeal filed by the assessee against the order of the Ld. CIT(A) dated 29/10/2015. None was present on behalf of the assessee nor was there any application for adjournment. However, there is a letter of request dated 26/07/2019 for grant of adjournment which is placed on record and by which request the case was adjourned to this date. In that adjournment application, the assessee had stated that similar appeal was filed for AY 2010-11 vide appeal in ITA No.5703 the fate of the order of the Tribunal was not known. Therefore, we decided to

dispose of the appeal on the basis of Tribunal order in ITA No.5703 and bench clerk was directed to trace the order.

2. The Bench clerk provided the bench a copy of the Tribunal order in ITA No.5703/Del/2013 and from the findings of the Hon'ble Tribunal, we find that similar issue was involved in AY 2010-11 and Hon'ble ITAT vide order dated 27/02/2015 had dismissed the appeal of the assessee by holding as under:-

2.1. The assessee has raised the following grounds:-

1. *"The learned CIT(A) was wrong in law and on facts in confirming the disallowance of Rs.283284/- made by Assessing Officer in respect of advertisement Expenses.*
2. *The learned CIT(A) while confirming the disallowance has failed to appreciate that the aforesaid expenses were for business purposes and was an allowable expense.*
3. *The learned CIT(A) has failed to appreciate that such expenses were not of personal nature and the decisions cited by the appellant were applicable to the facts of the present case.*
4. *In any case & without prejudice to the above grounds the disallowance of entire expenses is much too high & expensive.*
5. *The order of the learned AO is against law, facts & principles of natural justice."*

3. The relevant facts are that the assessee declared an income of Rs.21,78,38,840/- by way of filing its return on 15.10.2010. The said return was picked up for scrutiny by issuance of notice u/s 143(2) & 142(1) alongwith questionnaire etc. The AO in the course of hearing required the assessee to explain how the claim of advertisement bills amounting to Rs.2,83,284/- can be allowed as advertisement expenditure when admittedly the expenditure was incurred on Shradanjali (remembrance) expenditure etc. The specific show cause notice dated 11.05.2012 is reproduced hereunder for ready-reference:-

*"On the perusal of advertisement bills, it is noticed that assessee has claimed amount of Rs.2,83,284/- [Rs.2,42,529 + Rs. 40,755] as business expenses whereas this amount has been spent on account of 'Shradanjali', which is not a business expenditure. The company had published 'Shradanjali' for their*

*deceased members and claimed the expenditure on publication in newspaper as business expenditure. There a show cause, why the amount of Rs. 2,83,284/- should not be disallowed and added back in your income".*

4. The Ld. AR in reply has stated that the expenditure incurred to advertise the products in the newspapers of the company which had been promoted by Late Ram Nath Chaurasia as he was the person who started the trade name of Kamla Pasand and it was under his guidance and supervision that the business flourished. The Kamla Pasand Brand it was submitted became popular in the pouch form in the name of Rajshree thus the Shradhanjali was a way of advertising the product and paying homage to Sh. Ram Nath Chaurasia who had expired on 1994. Not convinced with the explanation offered the AO held that the expenditure is a personal expenditure of Chaurasia family as such not allowable u/s 37 of the Income Tax Act, 1961 as section 37(1) expressly prohibits the deduction of personal expenses. Disallowance of the said amount was accordingly made.

5. In appeal before the First Appellate Authority the issue was agitated again by the assessee. Reliance was placed upon the following decisions:-

(i) Weikfiled Products Co.(I) (P.) Ltd. vs Dy. Cit (2001) 71 TTJ (Pune) 519;

(ii) Andhra Sugars Ltd. vs. CIT (1988) 171 ITR 209 (Andhra);

(iii) CIT vs Lake PalalceHotels and Motels P. Ltd. (2007) 293 ITR 281

5.1. Considering the same the CIT(A) upheld the addition made holding as under:-

*6. "I have gone through the facts of the case, findings of the AO, written submissions of the appellant filed in the course of the appeal, and also the citations of the case laws relied upon by the AR and considered them. On perusal of the details, I find that the appellant filed a copy of the news paper cutting that was published in the news paper dated 01.04.2009. It was a "Shradhanjali (remembrance)" for Sh. Ram Nath Ji Chaurasia published by tile members of his family, officers and employees of the brands of Pan masala like "Kamala Pasand" Rajsree "Saffronic" etc. which were founded by late Sh. Chaurasia ,A "Shradhanjali (remembrance)", is a remembrance with respect and dedication and is a declaration and other acknowledgment of gratitude, respect or adoration. It is an evidence of attesting to someone of their praise worthy quality or characteristic. "It is an obeisance, tribute, respect and honor shown or expressed publicly". Therefore, "Shradhanjali", "tribute" in the present case is a remembrance of a founding father of the group. The expenditure does not have a character that they are expenses incidental to carrying out of their pan masala business nor were incurred for marketing the appellants products. Section 37(1) clearly stipulates that expenses which are revenue in nature and incidental to the business would be allowed. In the present case, the expenditure was incurred on account of expression of personal feelings of the persons mentioned above as a tribute, respect, honor of late Sh. Ram Nath Ji Chaurasia from whom the sons inherited the business of pan masala. The facts of the appellant's case are easily distinguishable from the case laws relied upon by the appellant. In view of the above discussion, I hold that the AO was justified in making the impugned disallowance and in making an addition of Rs.2,83,264/- to the income of the*

*appellant. Hence the addition made by the AO is upheld and I confirm the addition of Rs.2,83,284/- accordingly."*

6. The Ld. CIT DR places reliance on the orders of the authorities below. We have gone through the material available on record. On consideration of the same we are of the view that the claim of the assessee has rightly been rejected. The case law relied upon on facts is distinguishable and does not advance the assessee's case in any manner in view of the specific prohibition placed by the Legislature on the claim of personal expenditure u/s 37(1). In the face of the statutory provision on the facts where admittedly the expenditure was incurred as a Shradhanjali the assessee's claim has rightly been rejected. Accordingly the grounds raised of the assessee is rejected.

7. In the result the appeal of the assessee is dismissed.

3. Following the aforesaid judicial precedence available in the case of assessee itself we dismiss the appeal filed by the assessee.

The order is pronounced in the open court on 09/08/2019.

Sd/-

**[BHAVNESH SAINI]  
JUDICIAL MEMBER**

**Delhi;** Dated: 09/08/2019.

*Shekhar, Sr. P.S*

Sd/-

**[T.S. KAPOOR]  
ACCOUNTANT MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi