

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "B", MUMBAI

BEFORE SHRI MAHAVIR SINGH, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

ITA No.2585/Mum/2018
Assessment Year : 2006-07

Najmul Islam QA, Rul Islam Sayed, 80, Commercial Chambers, Yusuf Meherali Road, Mumbai [PAN : AMEPS2099B]	Vs.	CIT(Appeals)-28, Mumbai
(Appellant)		(Respondent)

Appellant By : None
Respondent By : Shri S. Abi Rama Karthikeyan, DR

Date of Hearing : 08-07-2019	Date of Pronouncement : 19-07-2019
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ORDER

PER MAHAVIR SINGH, J.M:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax(Appeals)-28, Mumbai, dated 05-02-2018 in Appeal No. CIT(A)-28/IT-678/ITO-17(2)(4)/2014-15. The assessment was framed by the ITO-13(2)(2), Mumbai u/s. 143(3) of the Income Tax Act, 1961 [herein after referred to as 'Act'] for the AY 2006-07, vide his order dated 11-12-2008.

2. The first issue in this appeal of assessee is against the order of CIT(A), confirming the addition made by the Assessing Officer (AO) of difference in commission as per TDS Certificate and as recorded in the books account noted as per the P&L A/c. The assessee has also raised the issue of disallowance of telephone expenses and sundry expenses by restricting the same at 25% and 50% respectively. For this, assessee has raised the following Ground(s):

“During the assessment, the learned assessing officer erred in disallowing ₹5,14,711/- on account of difference in commission income received during the year, disallowance of ₹32,161/- on account of telephone expenses and disallowances of ₹5,01,139/- on account of salary expenses paid.

The learned assessing officer provided with the requisite details along with supporting but the same has not been accepted.

The case was decided on the basis of assumption without considering the facts”.

3. We have heard rival contentions and gone through the facts and circumstances of the case. We noted that the CIT(A) has dismissed the appeal of assessee as the assessee has moved rectification application u/s.154 of the Act before the AO in regard to disallowance of these expenses. The CIT(A) noted that these disallowances do not relate to rectification of mistake as there is no mistake apparent from record rather the AO has taken a conscious decision after application of mind. The CIT(A) further noted that these are subject matter of regular appeal before the CIT(A) and not for rectification of mistake, hence CIT(A) dismissed the appeal of assessee. We noted that the CIT(A)

has rightly observed that the above addition is the subject matter of appeal and not rectification u/s.154 of the Act. Hence, we dismiss the appeal of assessee.

Order pronounced in the open court on 19th July, 2019

Sd/-
(RAJESH KUMAR)
लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/Mumbai; दिनांक/Dated : 19th July, 2019

TNMM

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील)/ The CIT(A), Mumbai
4. आयकर आयुक्त/ CIT, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file

आदेशानुसार/BY ORDER,

सत्यापित प्रति//True Copy//

उप/सहायक पंजीकार(Dy./Asst.Registrar)
आयकर अपीलीय अधिकरण,मुंबई/ ITAT, Mumbai