

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC", BENCH MUMBAI
BEFORE SHRI MAHAVIR SINGH, JUDICIAL MEMBER
&
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER
ITA No.5466/Mum/2018
(Assessment Year :2012-13)

Shalok Hari Nagpal 8/B, Dev Ashish Peddar Road Opp. Jaslok Hospital Mumbai-400 026	Vs.	ACIT-19(3) Room No.354, 3 rd Floor Aaykar Bhawan Mumbai-400 020
PAN/GIR No.AABPN3142R		
Appellant)	..	Respondent)

Revenue by	Akhtar H. Ansari
Assessee by	Rakesh Sirsalewala
Date of Hearing	15/10/2019
Date of Pronouncement	15/10/2019

आदेश / ORDER

PER BENCH:

This appeal filed by the assessee is directed against, the order of the Ld. Commissioner of Income Tax (Appeals)-3, Mumbai, dated 22/06/2018 and it pertains to Assessment Year 2012-13.

2. The assessee has raised the following grounds of appeal:-

1. Ground No. 1 - Ad-hoc disallowance of tempo expenses

On the facts and in the circumstances of the case, and in law, the Hon'ble CIT(A) has erred in upholding the adhoc disallowance of Rs. 1,06,205 being 20% of tempo expenses incurred without appreciating the facts and evidences brought on record.

The Appellant therefore, prays that the adhoc disallowance of Rs. 1,06,205 be deleted.

2. Ground NO.2 - Ad-hoc disallowance of conveyance charges

On the facts and in the circumstances of the case, and in law. the Hon'ble CIT(A) has erred in upholding the adhoc disallowance of Rs. 42,689 being 20% of conveyance charges incurred without appreciating the facts and evidences brought on record.

The Appellant therefore, prays that the adhoc disallowance of Rs. 42,689 be deleted.

3. Ground No. 3 - Ad-hoc disallowance of travel

On the facts and in the circumstances of the case, and in law. The Hon'ble CIT(A) has erred in upholding the adhoc disallowance of Rs. 69,370 being 20% of travelling expenses incurred without appreciating the facts and evidences brought on record.

The Appellant therefore, prays that the adhoc disallowance of Rs. 69,370 be deleted,

4. Ground No.4 - Ad-hoc disallowance of sundry expenses

On the facts and in the circumstances of the case, and in law, the Hon'ble CIT(A) has erred in upholding the adhoc disallowance of Rs. 28,223 being 20% of sundry expenses incurred without appreciating the facts and evidences brought on record.

The Appellant therefore, prays that the adhoc disallowance of Rs. 28,223 be deleted.

5. Ground No.5- Ad-hoc disallowance of petrol expenses

On the facts and in the circumstances of the case, and in law, the Hon'ble CIT(A) has erred in upholding the adhoc disallowance of Rs. 20,687 being 20% of petrol expenses incurred without appreciating the facts and evidences brought on record.

The Appellant therefore, prays that the adhoc disallowance of Rs. 20,687 be deleted.

6. Ground No. 5 - Disallowance of petrol expenses

On the facts and in the circumstances of the case. and in law, the Hon'ble CIT(A)has erred in disallowing the petrol expenses of Rs. 82,790 without appreciating the facts and evidences brought on record

The Appellant therefore, prays that the disallowance of Rs. 82,790 be deleted.

3. The brief facts of the case are that the assessee is an individual, filed its return of income for AY 2012-13 on 28/09/2012, declaring total income of Rs. 46,89,137/-. The case was selected for scrutiny and the assessment has been completed u/s 143(3) of the I.T.Act, 1961 on 18/02/2015, determining the total income at Rs. 49,27,260/-, by making additions towards of adhoc disallowance of certain expenses, on the ground that the assessee has failed to file necessary supporting bills and vouchers to justify claim of expenses against business income.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee has filed bills and vouchers, in respect of petrol expenses, including ledger extracts to prove that all expenses are supported by necessary evidences. The Ld.CIT(A) for the detailed reasons recorded in its appellate order confirmed additions made by the AO towards adhoc disallowances of various expenses, including tempo charges, conveyance expenses, travelling expenses and sundry expenses. The Ld.CIT(A), further enhanced additions made by the AO towards petrol expenses amounting to Rs. 98,280/-. Aggrieved by the Ld.CIT(A) order, the assessee is in appeal before us.

5. The Ld. AR for the assessee, at the time of hearing, submitted that the Ld.CIT(A) has confirmed disallowances of various expenses @ 20% and also, enhanced assessment, in respect of disallowances of petrol expenses without appreciating the fact that the assessee has filed necessary bills and vouchers to justify of claim of expenses against business income. The Ld. AR, further submitted that it is true that some expenses are supported by self made vouchers. But, fact remains that for those expenses, it is difficult to maintain bills issued by service providers, because in case of travel expenses, if you ask bill from a taxi driver or auto driver, it is difficult to get bills. Therefore, the assessee needs to maintain self made vouchers, and hence, it cannot be said that expenditure maintained under various heads are not supported by bills and vouchers.

6. The Ld. DR, on the other hand, strongly supported orders of the Ld.CIT(A).

7. We have heard both the parties, perused the material available on record and gone through orders of the authorities below. The Ld. AO while making 20% adhoc disallowances of certain expenses not made any observations, except stated that certain expenses are supported by self made vouchers. We, further noted that the assessee has filed supporting bills and vouchers, in respect of all expenses debited to the profit and loss account. The allegations of the AO are only with regard to self made vouchers. It is the claim of the assessee that for certain expenditures, it is difficult to get supporting bills from service providers, and for this, the assessee has cited examples of travelling expenses being auto charges/taxi charges. We, further noted that the Ld.CIT(A) had accepted fact that the assessee had filed vouchers, however rejected arguments of the assessee, on the ground that certain expenses are not supported by primary evidences without specifying, which expenditure is not supported by evidences. Similarly, in respect of enhancement of petrol expenses no proper reasons has been given to enhance petrol expenses, inspite of the assessee has furnished bills and vouchers. Therefore, considering the facts and circumstances of this case and also, reasons given by the lower authorities to make adhoc disallowance of expenses, we are of the considered view that the disallowance made by the AO, in respect of various expenses, it seems to be at higher side and accordingly, direct the AO to restrict disallowance of expenses under the head tempo expenses, conveyance charges, travel expenses, sundry expenses and petrol expenses to 10% of said expenses.

7. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open court on this 15 /10/2019

Sd/-

(MAHAVIR SINGH)
JUDICIAL MEMBER

Sd/-

(G. MANJUNATHA)
ACCOUNTANT MEMBER

Mumbai; Dated 15/10/2019
Thirumalesh Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai