

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ “सी”, नई दिल्ली में

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH ‘C’, NEW DELHI**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री एन.काबिल्लैया, लष्ठा सदस्य का समक्ष
BEFORE MS. SUSHMA CHOWLA, JM & SH. N.K.BILLAIYA, AM

आयकर अपील सं. / ITA No.201/Del/2017

निर्धारण वर्ष / Assessment Year 2013-14

Indian Compressors Ltd.,
33 & 35, Okhla Industrial Area,
Phase-II, New Delhi-110020.

PAN-AAACI0752Q

.....अपीलार्थी / Appellant

vs

DCIT,
Circle-12(1), New Delhi.

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर स/ Appellant by : Sh. Saubhagya Agarwal, Adv.

प्रत्यर्थी की ओर स/ Respondent by : Sh. S.N.Meena, Sr.DR

सुनवाई की तारीख / Date of Hearing : 19.12.2019	घोषणा की तारीख / Date of Pronouncement: 31.12.2019
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by assessee is against order of CIT(A)-12, New Delhi dated 28.10.2016 relating to assessment year 2013-14 against the order passed under section 143(3) of the Income Tax Act, 1961 (in short “Act”).

2. The assessee has raised following grounds in this appeal:-

1. *“That having regard to facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the assessment made by the Assessing Officer at Rs.1,67,10,860/- instead of Rs. 1,31,94,210/- as declared in the return of income.*
2. *That the Ld. Commissioner has erred in facts and in law in sustaining the order of the Assessing Officer based on surmises and conjectures and ignoring relevant evidence placed on record.*
3. *That on the facts and circumstances of the case and in law, the Ld. Commissioner erred in not appreciating the fact that the AO has made an addition of Rs.3,22,728/- incurred on foreign travel of a Director of the Appellant on the ground that there may be an element of personal and pleasure trip cannot be ruled out without bringing any other material fact on record.*
4. *That on the facts and circumstances of the case, even if there was some personal element in the expenditure, disallowance of the whole sum cannot be made.*
5. *Appellant was not granted any opportunity to cross-examine the persons whose statements have been relied upon by the Assessing Officer for making adverse inferences against the Appellant.*
6. *That on the facts and circumstances of the case and in law, the Ld. Commissioner erred in not appreciating the fact that the Appellant had incurred expenditure on the medical treatment of its Director Mr. G.L. Didwania only on the grounds of commercial expediency, so that it could continue to make use of his knowledge.*
7. *That on the facts and circumstances of the case and in law, the Ld., Commissioner erred in not appreciating the fact that Mr. G.L. Didwania was the founder of the Appellant company and possessed immense know how and that it was in the Appellant’s interest to continue to utilise the knowledge.*
8. *That on the facts and circumstances of the case and in law, the Ld., Commissioner erred in holding that no evidence was provided to the AO when, to the contrary all medical bills were furnished to the AO.*
9. *That on the facts and circumstances of the case and in law, the Ld. Commissioner erred in relying upon the fact that Mr. G.L. Didwania had not offered the sum to tax as perquisite when the fact had absolutely no bearing on the case of the Appellant.*
10. *That on the facts and circumstances of the case and in law, the Ld., Commissioner erred in not appreciating that the case laws quoted were directly applicable to the case of the Appellant.*

11. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making the impugned addition and framing the impugned assessment order is contrary to law and facts, void ab initio and without providing adequate opportunity of hearing and without considering the principles of natural justice the same is not sustainable on various legal and factual grounds.*

12. *That having regards to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of the Ld. AO in charging interest u/s 234A and 234B of the Income Tax Act, 1961.*

13. *That the appellant craves to leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without pro other.”*

3. The Grounds of appeal Nos. 1 & 2 are general in nature and do not require any adjudication. The Grounds of appeal Nos. 1 & 2 are thus dismissed. The Grounds of appeal Nos. 9 to 13 are general in nature as pointed out by the Ld.AR for the assessee do not require any adjudication. Grounds of appeal Nos.9 to 13 are thus dismissed.

4. The issue raised in Grounds of appeal Nos. 3 & 4 is against the addition of Rs.3,22,728/- on account of disallowance of foreign travel of the Director.

5. The Ld. AR for the assessee fairly pointed out that the said issue stand covered by the order of Tribunal in assessee's own case in Assessment Year 2012-13. We find that the Tribunal while deciding similar issue in Assessment Year 2012-13 in ITA No.1588/Del/2017 order dated 31.10.2019 has adjudicated the said issue on disallowance out of foreign travel expenses of the Director which included the expenses relating to travel by Ms. Unnati Didwania. The said issue has been decided by para

4.1 to 4.4 of the order passed by the Tribunal. We refer to the same but are not reproducing the same for the sake of brevity. Following the same parity of reasoning, we disallow the expenditure of Rs.3,22,728/-. The Grounds of appeal Nos. 3 & 4 raised by the assessee are thus dismissed.

6. The Ground of appeal No.5 is not pressed by the assessee and the same is dismissed.

7. The Grounds of appeal Nos. 6 to 8 are against the disallowance of medical expenses incurred by the assessee company on the treatment of Sh.G.L.Didwania.

8. The Ld.AR for the assessee again pointed out that the said issue is covered against the assessee in ITA No.1558/Del/2017 Assessment Year 2012-13 order dated 31.10.2019 in assessee's own case. We find that the Tribunal vide para 5 to 5.5 of the order has decided the aforesaid issue. We are referring to the said decision of the Tribunal but are not reproducing the same for the sake of brevity. Following the same parity of reasoning, Grounds of appeal Nos. 6 to 8 are also dismissed.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 31st day of December, 2019.

Sd/-

(N.K.BILLAIYA)

लक्षा सदस्य/ACCOUNTANT MEMBER

दिल्ली / दिनांक Dated : 31st December, 2019.

** Amit Kumar **

Sd/-

(SUSHMA CHOWLA)

न्यायिक सदस्य/JUDICIAL MEMBER

आदश की प्रतिलिपि अग्रहित/Copy of the Order is forwarded to :

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

आदशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक रजिस्ट्रार, आयकर अपीलीय अधिकरण ,दिल्ली
Assistant Registrar, ITAT, Delhi