

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

Before Ms. Sushma Chowla, Vice President

Dr. B. R. R. Kumar, Accountant Member

ITA No. 3859/Del/2016 : Asstt. Year : 2012-13

Sanjay Minotra, Prop. M/s Syncotts International, C/o M/s RRA TAXINDIA, D-28, South Extension, Part-1, New Delhi-110049	Vs	Asstt. Commissioner of Income Tax, Circle-62(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AHCPM0641G		

**Assessee by : Sh. Somil Aggarwal, Adv.
Revenue by : Shri Saras Kumar, Sr. DR**

Date of Hearing: 07.01.2020

Date of Pronouncement: 28.01.2020

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT (A)-20, New Delhi dated 13.06.2016.

2. Following grounds have been raised by the assessee:

"1. That having regard to the facts and circumstances of the case, the Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making an adhoc disallowance of Rs. 7,00,000/- on account of alleged unverifiable purchases and that too without observing the principles of natural justice.

2. That having regard to the facts and circumstances of the case, the Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making an adhoc disallowance of Rs. 3,00,000/- on account of direct expenses and that too without observing the principles of natural justice.

3. That having regard to the facts and circumstances of the case, the Ld. CIT(A) has erred in law and on facts in sustaining the disallowance to the extent of Rs. 1,17,577/- out of total disallowance of Rs. 2,35,154/- under the head vehicle expenses, festival expenses, telephone expenses and conveyance expenses.

4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making an adhoc disallowance of Rs. 3,90,513/- on account of travelling expenses and that too without observing the principles of natural justice.

5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not admitting/considering the additional grounds filed by the assessee vide petition dated 06.06.2016."

3. The Assessing Officer has disallowed Rs. 7 lacs on account of unverifiable purchases to plug the leakage of revenue. The total purchases made by the assessee are to the tune of Rs.6.15 crores. The Id. CIT (A) confirmed the addition holding that primary onus of providing evidences lies on the assessee to get deduction for expenditure incurred for the purpose of business.

4. Before us, the Id. AR argued that the assessee is engaged in the business of installation and maintenance/restoration of Tennis Court and other Sport Surfaces such as Basket, Volley Ball, Badminton etc. under the name and style of his proprietary concern. It was submitted that the ad-hoc disallowance made by Assessing Officer is not justified as accounts are audited under the I.T. Act, 1961 and auditors have not made any adverse observations in either of the audits for the reason that there were complete books of accounts supported by adequate vouchers. Had the expenses not been supported by the vouchers, the auditors would have

given adverse comment. Therefore, in the absence of any adverse comment from both the auditors shows that all the purchases were duly documented and vouched. He argued that the books of accounts along with bills, vouchers, muster-rolls, wages sheets were produced and which were also examined by the Assessing Officer as mentioned in the page no. 2 of the assessment order.

5. The Id. Sr. DR relied on the order of the Id. CIT (A).

6. At this juncture, the Id. AR fairly agreed that disallowance of Rs.1 lac would suffice the interest of justice.

7. We find that the Assessing Officer has not brought to fore as to what are the details for which vouchers and bills are missing. The lump-sum disallowances without pointing out exact amount cannot be appreciated. After going through the facts on record, since revenue has not determined the expenses for which bills have been missing, we hereby lower the disallowance to Rs.1 lac.

8. Similarly, the Id. CIT (A) has confirmed the addition of Rs.1,17,577/- on account of vehicle expenses, festival expenses, telephone expenses and conveyance expenses. The total amount disallowed by the Assessing Officer was Rs.2,35,154/- which is 1/5th of these expenses.

9. Before us, it was argued that these are expenses incurred with the running of the business and no personal element can be attributed to these expenses. Since, these expenses of conveyance and small repairs they have been self-vouched, the

Id. AR submitted that at the most 5% disallowance may be made.

10. Having heard both the parties, we hereby hold that 1/10th of the telephone and vehicle expenses may be treated as personal expenses by the partners. The festival expenses are incurred for performing pooja at office premises and distribution of sweets to the office staff which is allowed as business expenditure. Hence, no disallowance is called for.

11. Regarding the disallowance @10% on account of travelling expenses, since no evidence has been brought on record, any element of non-business purpose, we hereby delete the disallowance made by the Assessing Officer.

12. Apropos, the TDS mismatch, the Assessing Officer is directed to reconcile the TDS mismatch and due credit for the taxes paid.

13. In the result, the appeal of assessee is allowed.

Order Pronounced in the Open Court on 28/01/2020.

Sd/-

(Sushma Chowla)
Vice President

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 28/01/2020

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR