

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 7054/Del/2017, A.Y. 2013-14

M/s. Creative Arts Education Society A-21/13, Local Shopping Centre, Naraina Industrial Area Phase-II, New Delhi PAN :	Vs.	ACIT Circle-50(1) New Delhi
(Appellant)		(Respondent)

Department by:	Ms. Ashima Neb, Sr. DR
Assessee by :	Shri Salil Sethi, CA
Date of Hearing	31/10/2019
Date of pronouncement	27/01/2020

ORDER

PER SUDHANSHU SRIVASTAVA, JM:

This appeal is preferred by the Assessee against order dated 14.09.2017 passed by the Ld. Commissioner of

Income Tax (Appeals)-17, New Delhi {CIT (A)} for assessment year 2013-14.

2.0 The brief facts of the case are that the return of income was filed declaring an income of Rs. 29,86,930/- which was subsequently revised at Rs. 2,43,17,680/-. The assessee's case was selected for scrutiny under CASS and the assessment was completed at an income of Rs. 3,25,45,855/- after making a disallowance of Rs. 51,24,957/- u/s 40(a)(ia) of the Act, disallowance of Rs. 15,00,000/- on account of rent paid and a further disallowance of Rs. 10,00,000/- out of various other expenses debited to Profit & Loss Account on lump sum basis out of total expenses of Rs. 1,60,32,176/- as the assessee could not get the entire expenses verified.

2.1 Assessee's appeal before the Ld. First Appellate Authority was partly allowed wherein the disallowance pertaining to rent was deleted. The Ld. CIT (A), however, upheld the disallowance of Rs. 10,00,000/- out of the various expenses disallowed on a lump sum basis and the assessee is now appeal before this Tribunal challenging the

confirmation of the lump sum disallowance by the Ld. CIT (A).

3.0 At the outset, the Ld. Authorised Representative (AR) submitted that the impugned disallowance has been made on a lump sum basis without pointing out specific defects in the accounts and records of the assessee and further that the Ld. CIT (A) has also upheld the disallowance on the same ground. It was submitted that it is settled law that *ad hoc* disallowance can neither be made nor sustained without bringing on record any specific defect either in the books or the records of the assessee.

4.0 The Ld. Departmental Representative (DR) supported the orders of the authorities below.

5.0 We have head the rival submissions and have also perused the material on record. A perusal of the assessment order shows that the Assessing Officer (AO) has disallowed an amount of Rs. 10,00,000/- out of various expenses like telephone expenses, miscellaneous expenses, entertainment expenses and depreciation totalling to Rs. 1,60,32,176/- by noting that the assessee could not

produce documents such as log books, bills/vouchers, etc.. The AO has also noted that in some cases the expenses were incurred in cash and the vouchers were self made and hand written. Therefore, to protect the interest of Revenue a lump sum amount of Rs. 10,00,000/- was to be disallowed. The Ld. CIT (A) has upheld the findings of the AO by noting that the assessee was unable to substantiate that the entire expenses were wholly and exclusively for the purpose of business and details like log books etc for vehicles, telephone were not available. However, the fact remains that this disallowance has been made on a lump sum basis/*ad hoc* basis without bringing on record any specific defect in the accounts of the assessee or in the details submitted by the assessee. There are numerous judicial precedents wherein it has been laid down that no *ad hoc* disallowance can be made without pointing out any specific defect in the books of accounts of the assessee or in the documents furnished by him. Therefore, we are unable to uphold the findings of the Ld. CIT (A) and we set aside the impugned order and direct the AO to delete the addition.

6.0 In the final result the appeal of the assessee stands allowed.

Order pronounced in the Open Court on 27th January, 2020.

sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

sd/-

**(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER**

Dated: 27/01/2020

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

ASSISTANT REGISTRAR
ITAT, New Delhi