

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI

BEFORE R.C.SHARMA,ACCOUNTANT MEMBER &
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

ITA NO.6653/MUM/2018(A.Y.2012-13)

Baba Steel Pvt. Ltd.,
311-A, Bhaveshwar Arcade,
LBS Marg, Ghatkopar West,
Mumbai 400 086
PAN: AACCB 3186B

..... Appellant

Vs.

Income Tax Officer,
Ward 14(1)(2),
Room No.457, 4th Floor,
Aaykar Bhavan, M.K.Road,
Mumbai 400 020

..... Respondent

Appellant by : Shri Lal Chand Chaudhary
Respondent by : Shri Kumar Padampani Bora

Date of hearing : 12/12/2019
Date of pronouncement : 13/02/2020

ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax(Appeals)-21, Mumbai [in short 'the CIT(A)] dated 27/07/2018 for the assessment year 2012-13.

2. The brief facts as emanating from the records are: The assessee is engaged in manufacturing and trading of steel wires and bars. In scrutiny assessment proceedings the Assessing Officer made disallowance in respect of foreign travel

expenditure Rs.78,000/-, employees training expenditure Rs.23,28,336/- and mismatch of TDS Rs.24,800/-. Aggrieved against the assessment order dated 27/02/2015 passed under section 143(3) of the Income Tax Act, 1961(in short ' the Act') the assessee filed appeal before the CIT(A). The CIT(A) granted part relief to the assessee. The CIT(A) rejected assessee's claim of employees training expenses and foreign travel expenses in entirety. The CIT(A) deleted the addition of Rs.24,800/- on account of mismatch of TDS. Against the additions confirmed, the assessee is in further appeal before the Tribunal.

3. Shri Lal Chand Chaudhary, appearing on behalf of the assessee submitted that the CIT(A) has rejected assessee's claim of foreign travel expenses and employees training expenses merely on the ground that the expenditure was incurred on the higher studies and travel expenses of son of the director. The Id. Authorized Representative for the assessee contended that merely for the reason that foreign travel expenses and employee training expenses was incurred by the assessee in respect of employee who happens to be son of the director cannot be disallowed. To support his contention, the Id. Authorized Representative for the assessee placed reliance on the decision of Tribunal in the case of J.B.Advani & Co Ltd. vs. JCIT, 1 SOT 830(Mum). The Id. Authorized Representative for the assessee further placed on record agreement for sponsorship of higher education of Mr. Abhishek Sanjay Agrawal and the assessee company. The Id. Authorized Representative submitted that Mr. Abhishek Sanjay Agrawal was on the rolls of assessee company as Marketing Assistant since April,2010 and was drawing monthly salary of Rs.15,000/-. After his foreign education and training he rejoined the assessee company and there was increase in the annual turnover of the assessee company.

4. On the other hand, Shri Kumar Padampani Bora, representing the Department vehemently defended the impugned order and prayed for dismissing the appeal of assessee. The Id. Departmental Representative submitted that assessee had incurred expenditure on the education and foreign travel expenditure of the son of director. The expenditure is not allowable in the hands of the assessee company, hence, the same was added back.

5. We have heard the submissions made by rival sides and have perused the orders of authorities below. It is an undisputed fact that foreign travel expenses and employees training expenses was in respect of Mr. Abhishek Sanjay Agrawal son of one of the directors of the assessee company. The Id. Authorized Representative for the assessee has placed on record various documents to show that Mr. Abhishek Sanjay Agrawal was on the rolls of the company and was drawing salary prior to his foreign training/education sponsored by the assessee. After completing completion foreign training/education, Shri Abhishek Sanjay Agrawal joined the assessee company in accordance with sponsorship agreement dated 05/01/2011.

6. The assessee has placed heavy reliance on the decision rendered in the case of J.B.Advani & Co. Ltd.(supra) to contend that such training and foreign travel expenditure is allowable under section 37(1) of the Act. The relevant extract of the findings of the Tribunal on this issue are as under:-

7. On a careful reading of the facts of the case, we are of the view that the facts of the present case are almost identical to the facts of the case considered in the case of Sakal Papery (P.) Ltd. (supra). In that case also it was the daughter of the Director of the assessee-company who was sent abroad for higher studies in Journalism. In the present case, Miss Reshma A. Lalwani is the daughter of one of the Directors of the assessee-company but also an employee of the assessee-company, The assessee-company in a better footing in the present case. Not only that. Miss Reshma Lalwani on returning to India continued to work for the assessee-company in compliance of the agreement she had entered into with the assessee-company before leaving India. She has been further made as a Director of the

assessee-company. Therefore the relation of Miss Reshma Lalwani to one of the Directors of the assessee-company as such need not disqualify her from being sent abroad for higher studies by the assessee-company. The only reason., pointed out by the Assessing Officer to distinguish the present case from the decision in Sakal Papers (P.) Ltd.'s case (supra) is that the subject studied by Miss Reshma Lalwani does not have a direct relation to the activities carried on by the assessee-company. The assessee-company is basically engaged in manufacturing activities and Miss Reshma Lalwani had gone abroad for higher studies in Business Administration. We do not agree with the view of the Assessing Officer that the subject Business Administration does not have any connection with the business carried on by the assessee-company. If we accept the proposition made by the Assessing Officer, the result would be that, the expenditure on foreign study incurred by an assessee in respect of "technical subjects" alone would be allowed as deduction. It is not proper to say that management studies are not relevant for carrying on a business. Therefore, the distinction made by the Assessing Officer on the basis of the subject studied abroad is without any conviction. But for the difference in the subjects studied abroad, the facts of the case in Sakal Papers (P.) Ltd. (supra) are exactly similar to the facts involved in the present case. Miss Reshma Lalwani being an employee of the assessee-company. the case of the assessee-company is on a better footing. In addition to this, the decision of the Tribunal in the case of JTO \. DM. Harish & Co. case (supra) lent support to the argument of the assessee. In the said case also it was the son of a partner of the assessee-firm, who went abroad for higher studies in law. Therefore, the relation of the student with the Director or partner of the assessee need not weigh that much against the assessee".

Thus, taking into consideration facts of the case and the decision of Tribunal above, the appeal of the assessee deserves to be allowed. The expenditure claimed by the assessee on foreign travel and training/education of an employee is thus, allowed.

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

Order pronounced in the open court on Thursday the 13th day of February, 2020.

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Dated 13/02/2020
Vm, Sr. PS(O/S)

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai

	Details	Date	Initials	Designation
1	Draft dictated on	.		Sr.PS/PS
2	Draft Placed before author			Sr.PS/PS