

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

BEFORE SHRI SHAMIM YAHYA, AM

आयकर अपील सं/ I.T.A. Nos.7094 & 7095/Mum/2018
(निर्धारण वर्ष / Assessment Years: 2012-13 & 2014-15)

Daulat Automobiles 42, R. Kamani Marg, Ballard Estate, Fort, Mumbai- 400001.	बनाम/ Vs.	ITO 17(1)(3) Aayakar Bhavan, M.K. Road, Mumbai-400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAFD0919R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	None	
Revenue by:	Shri Chaitanya Anjaria	

सुनवाई की तारीख / Date of Hearing: 18/02/2020
घोषणा की तारीख /Date of Pronouncement: 20/04/2020

आदेश / ORDER

PER SHAMIM YAHYA, AM:

These appeals by the assessee are against the order of the Ld. CIT(A) dated 03.05.2018 and pertain to A.Ys.2012-13 & 2014-15.

2. The issue raised for A.Y.2012-13 is that the CIT(A) erred in upholding the addition of Rs.1,14,572/- made by AO on account of adhoc disallowance @ 15% of Rs.7,63,811/- being expenditure for Labour & Service Charges, Commission, Miscellaneous Expense, Repairs, Printing and Accessories etc. For AY 2013-14 the issue is same only figures are of Rs.1,05,751/- addition upheld in respect of expenditure totally of Rs.7,05,003/-.

3. In the assessment order, the AO made the disallowance by simply noting that the impugned expenditure incurred in cash and



ITA. NOS. 7094 & 7095/M/2018
A.Ys. 2012-13 & 2014-15

non-business element in the same cannot be ruled out. Hence, he made estimated the disallowance of 15%. Upon assessee appeal, the Ld. CIT(A) confirmed the same.

4. Against the above order, the assessee is an appeal before the Hon'ble ITAT. I have heard the Ld. DR and perused the records. None- appeared on behalf of the assessee.

5. Up on careful consideration I note that the adhoc disallowance @ 15% is done by AO. This is solely based upon the observation that the expenditure is in cash and element of personal use cannot be ruled out. I also note that before the Ld. CIT(A) assessee has vehemently disputed that all the expenditures are in cash. In my considered opinion, the addition is based upon surmise and conjectures totally unsustainable in law. In my considered opinion, the interest of justice which served if the disallowance is restricted to 5% as against the 15% done by authorities below.

6. Accordingly, I direct that disallowance be restricted to 5% instead of 15% of impugned expenditure.

In the result, these appeals filed by the assesses **stand partly allowed.**

Order pronounced in the open court on 20/04/2020

Sd/-

(SHAMIM YAHYA)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 20/04/2020
Vijay Pal Singh/Sr. PS



ITA. NOS. 7094 & 7095/M/2018
A.Ys. 2012-13 & 2014-15

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**