

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
ALLAHABAD BENCH, ALLAHABAD  
(THROUGH VIRTUAL COURT)  
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**

**ITA No.91/ALLD/2018  
Assessment Year: 2012-13**

<b>Shri Algoo Singh</b> Chaukiya Post – Khanjadipur Chunar, Mirzapur TAN/PAN: <b>AVIPS 2959 M</b> (Appellant)	v.	<b>DCIT, Circle – 3, Mirzapur</b>    (Respondent)
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Appellant by:	Shri Praveen Godbale, Advocate
Respondent by:	Shri A. K. Singh, Sr. DR
Date of hearing:	10. 11. 2020
Date of pronouncement:	27.11. 2020

**ORDER**

**PER SHRI VIJAY PAL RAO, JUDICIAL MEMBER:**

This appeal by the assessee is directed against the order dated 21.12.2017 passed by Commissioner of Income Tax (Appeals), Allahabad for the assessment year 2012-13. The assessee has raised the following grounds:

- “1. That in any view of the matter order passed u/s 143(3) dated on 30.01.2015 is bad both on the facts and in law hence the declared income should have been accepted.*
- 2. That in any view of the matter the learned CIT(A) was wrong in deciding the appeal ex parte without providing reasonable opportunity to the assessee and the order of CIT(A) is not a reasoned/ speaking order in the eyes of law and therefore the ex parte appeal as decided is highly unjustified.*
- 3. That in any view of the matter disallowance of Rs.3,00,000/- under the head expenditure claimed in profit & loss account disallowance by the Assessing Officer and confirmed by CIT(A) is not correct hence uncalled for.*

*4. That in any view of the matter disallowance of Rs. 87,750/-under heads of depreciation by two lower authorities is unwarranted and highly unjustified in the facts and circumstances of the case.*

*5. That in any view of the matter disallowance of Rs. 58,757/-as made in a very casual manner by Assessing Officer vide Para 4 of the order without any valid reason which is highly unjustified and illegal.*

*6. That in any view of the matter interest charged u/s 234A,234B and 234C of the Income Tax Act is highly unjustified.*

*7. That in any view of the matter the appellant reserves his rights to take any fresh ground of the appeal before hearing of the appeal.*

*It is therefore prayed that a suitable order may kindly be passed and relief may please be allowed accordingly.”*

2. At the time of hearing, the Id. counsel for the assessee has stated at Bar that the assessee does not press ground no. 1, 2 and 4 to 7 of the grounds of appeal and the same may be dismissed as not pressed. The Id. DR has raised no objection if the ground no. 1, 2 and 4 to 7 of the appeal are dismissed as not pressed. Accordingly, ground no. 1, 2 and 4 to 7 are dismissed being not pressed. The only ground pressed by the assessee is ground no. 3 regarding a disallowance of Rs.3,00,000/- on account of expenditure claimed by the assessee in the profit & loss account.

3. The Id. AR of the assessee has submitted that during the course of assessment proceedings, the assessee has filed the requisite details / explanation in compliance to the notices issued by the AO. This fact has been accepted by the AO in the assessment order itself. However, the AO has made an adhoc disallowance of expenses on the ground that the complete bills and vouchers in respect of the expenses are not furnished by the assessee. The Id. AR has contended that on the one hand, the AO has accepted the fact that the assessee has produced all the details

and explanations as required by the AO and on the other hand, an adhoc disallowance has been made on account of expenses which is highly arbitrary and unjustified. The AO has not pointed out which of the expenses are not supported by the bills and vouchers and, therefore, are not verifiable but a general and vague reasoning has been given by the AO to make an adhoc disallowance which is not sustainable. In support of his contention, he has relied upon the following decisions:

i. 254 ITR 215(SC) in the case of J.J. Enterprises vs Commissioner of Income-Tax dated 14.09.2001

ii. 176 ITD 609(Kol-Trib) in the case of Bhagwati Gases Ltd. v. DCIT

4. On the other hand, the Id. DR has submitted that the AO has carried out a test check of bills and vouchers produced by the assessee and found that the complete bills and vouchers were not produced by the assessee and consequently the expenses were not fully verifiable. The AO has made a reasonable disallowance of Rs.3,00,000/. He has relied upon the orders of the authorities below.

5. Having considered the rival submissions as well as relevant materials on record, it is noted that the AO duly recorded in the assessment order that the counsel of the assessee has appeared along with the accountant of the assessee from time to time during the assessment proceedings and filed requisite details / explanations which has been discussed with the counsel of the assessee. Even the AO has not doubted the net profit ratio shown by the assessee from the gross receipt of Rs.5,36,20,993/- in the business of civil contract work and labour supply. The AO has made an adhoc disallowance of Rs.3,00,000/- on the ground that in the absence of complete bills and vouchers, the expenses are not fully verifiable. The AO has not given a single instance of the expenses which is not supported by the bills and vouchers. Further the AO has also accepted the fact that the expenses claimed by the assessee cannot be denied in toto having regard to the business and expenses

incurred by the assessee. Once the AO was satisfied with the incurrence of the expenses for the purpose of business then the adhoc disallowance made by the AO on such a vague reason is highly arbitrary. Accordingly, in the facts and circumstances of the case, when the AO has not even pointed out any defect in the claim of expenses or specified any expenditure which is not supported by the bills and vouchers, the adhoc disallowance made by the AO is not sustainable and the same is deleted.

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

Order pronounced in the open Court on 27/11/2020.

Sd/-  
[VIJAY PAL RAO]  
JUDICIAL MEMBER

DATED: 27/11/2020  
RS

Copy forwarded to:

1. Appellant –Shri Algoo Singh
2. Respondent -DCIT, Circle – 3, Mirzapur
3. CIT(A) -
4. CIT
5. DR -

By order

Assistant Registrar