

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC-2": NEW DELHI  
(Through Video Conferencing)**

**BEFORE  
SHRI R.K. PANDA, ACCOUNTANT MEMBER**

ITA No. 5348/Del/2019  
Asstt. Year 2016-17

Klaxon Trading (P) Ltd. Warehouse A-97B, Khasra No. 50/4, Behind Friends Dharam Kanta, Sahbad, Daulatpur, New Delhi – 110 042 PAN AAACK3487E	Vs.	DCIT, Central Circle 28 New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri S. Krishnan, Advocate
Department by :	Ms. Shivani Bansal, Sr. DR
Date of Hearing	06/01/2021
Date of pronouncement	19/01/2021

**ORDER**

**PER R.K. PANDA, AM**

This appeal filed by the assessee is directed against the order dated 3<sup>rd</sup> May, 2019 passed by the Ld. CIT(A) -29, New Delhi relating to assessment year 2016-17.

2. The only effective ground raised by the assessee reads as under :-

*“On the facts and in the circumstances of the case and in law the Ld. CIT(Appeals) erred in confirming the addition of Rs. 1,23,375/- made by the Assessing Officer treating the expenditure incurred on membership fees as personal in nature.”*

3. Facts of the case, in brief, are that the assessee is a Private Limited Company and is engaged in the business of trading of metal scrap. It filed its return of income on 17<sup>th</sup> October, 2016 declaring total income of Rs. 29,86,230/-. The AO completed the assessment u/s 143(3) on 31<sup>st</sup> October 2018 wherein apart from other additions he made addition of Rs. 1,23,375/- debited by the assessee in the profit and loss account towards membership fee. According to the AO this is an expenditure in the nature of personal expenses and cannot be claimed to be a business expenditure.

3.1 In appeal the Ld. CIT(A) upheld the action of the AO by observing as under :-

*“ Ground no. 2 relates to contention of the appellant against addition of Rs. 1,23,375/- made by the AO. The fact of the case is that the appellant had claimed the impugned amount of expenditure to the profit & loss account being membership fee paid to the club by the director of the company. I find that the membership fee paid to the club by the director is nothing to do with the business of the appellant as the same was an expenditure of the personal nature incurred by the director to enjoy the facilities of the club. Therefore, the nature of the expenditure is not for the purpose of business of the appellant company. Under these circumstances, I do not find any infirmity in the AO's order.”*

4. Aggrieved with such order of the Ld. CIT(A) the assessee is in appeal before the Tribunal.

5. Ld. Counsel for the assessee strongly challenged the order of the Ld. CIT(A) in sustaining the addition made by the AO. He submitted that the expenditure was incurred for obtaining the membership of club which was done for business purpose. He submitted that the premises which was used by the assessee for its business is located in a crowded locality and dusty. Many business constituents find the atmosphere repulsive. In order to

provide a better environmental and without incurring substantial expenditure the assessee opted to become a member of the club by paying a membership fees of Rs. 1,23,375/-. He submitted that there is nothing personal that the membership fees could have been disallowed. He further submitted that since the assessee is a company such expenditure shall always be held to be allowable. Ld. Counsel for the assessee also referred to the decision of Hon'ble Delhi High Court in the case of CIT vs Samtel Colour Ltd. reported in 326 ITR 425 and various other decisions.

6. Ld. Sr. DR on the other hand strongly supported the order of the Ld. CIT(A).

7. I have considered the rival arguments made by both the sides perused the orders of the AO and Ld. CIT(A) and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me. I find the AO in the instant case disallowed an amount of Rs. 1,23,375/- being the expenditure debited in the profit and loss account towards membership fees of a club treating the same as personal in nature. I find the Ld.

CIT(A) sustained the addition made by the AO, the reasons of which have already been reproduced in the preceding paragraphs. It is the submission of the Ld. Counsel for the assessee that since the business premises of the assessee is located at a crowded locality and dusty, the assessee, without incurring substantial expenditure in the establishment of a separate office, opted for membership of a club to provide a better environment to its customers. It is also his submission that since the assessee is a company, the membership fee has always been held to be an allowable expenditure.

8. I find some force in the arguments of the Ld. Counsel for the assessee. The Hon'ble Delhi High Court in the case of Samtel Colour Ltd. reported in 326 ITR 425 has held that corporate membership fees payable to a club is revenue expenditure. The coordinate benches of the Tribunal are consistently taking the view that expenditure incurred towards membership fee paid by company is allowable as revenue expenditure. Since in the instant case the genuineness of payment is not in dispute, therefore, respectfully following the decision of Hon'ble Delhi High Court in the case of Samtel Colour Ltd. (supra) I hold that the

membership fee paid to the club is an allowable expenditure. I, therefore, set aside the order of CIT(A) and direct the AO to delete the addition. The ground raised by the assessee is accordingly allowed.

9. In the result, the appeal filed by the assessee is allowed.

**Order pronounced on 19<sup>th</sup> January, 2021.**

**sd/-**

**(R.K. PANDA)  
ACCOUNTANT MEMBER**

Dated: 19/01/2021

**Veena**

Copy forwarded to

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

ASSISTANT REGISTRAR  
ITAT, New Delhi