

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA**

(Before Sri J. Sudhakar Reddy, Accountant Member & Sri Aby T. Varkey, Judicial Member)

**I.T.A. No. 2113/Kol/2019
Assessment Year: 2013-14**

Shri Madan Mohan Mondal.....Appellant
[PAN: AGLPM 3936 C]

Vs.

ACIT, Circle-43, Kolkata.....Respondent

Appearances by:

Sh. Soumitra Choudhury, Adv., appeared on behalf of the Assessee.

Smt. Ranu Biswas, Addl. CIT, appeared on behalf of the Revenue.

Date of concluding the hearing : March 11th, 2021

Date of pronouncing the order : April 16th, 2021

ORDER

Per J. Sudhakar Reddy, AM:

This is an appeal filed by the assessee directed against the order of the Learned Commissioner of Income Tax (Appeals)-1, Kolkata, [hereinafter the "CIT(A)"], passed u/s. 250 of the Income Tax Act, 1961 (the 'Act'), dated 10.06.2019 for the Assessment Year 2013-14.

2. The assessee is an individual and filed its return of income for the AY 2013-14 on 29.10.2013 declaring total income of ₹54,45,080/-. The assessee is engaged in the business of agency commission. He earned commission from M/s. Prayag Infotech Hi-Rise Limited during the year in consideration. The case was selected for limited scrutiny and the AO passed an order u/s 143(3) of the Act dated 11.03.2016 determining the total income of ₹62,77,794/- inter alia making ad-hoc disallowance of ₹5,00,000/- of meeting expenses, ad-hoc disallowance of ₹3,00,000/- on incentive expenses.

3. Aggrieved, the assessee carried the matter in appeal. The first appellate authority passed an *ex-parte* order. Further aggrieved, the assessee is in appeal before us.

3.1. The ld. Counsel for the assessee submitted that the ld. CIT(A) had passed an *ex-parte* order and has not given sufficient opportunity to the assessee. On a query from the Bench, he submitted that the disallowances being disputed are small and were made on ad-hoc basis and hence the issues can be resolved by the ITAT without the case being remanded back to the file of the ld. CIT(A). The ld. D/R had no objection. He submitted

that ground nos.-1 to 4 and ground nos.-7 to 9 are not pressed. Thus we dismiss these grounds as not pressed. On ground no.-5, the Id. Counsel for the assessee submitted that the AO disallowed the expenses incurred by the assessee for meetings with numerous prospects to investors. He submitted that the ad-hoc disallowance of ₹5,00,000/- made is not sustainable. He argued that ad-hoc disallowance cannot be made by the AO as these are arbitrary. He argued that the AO has not pointed out any defect in the books of account or vouchers and hence the disallowance is bad in law. On disallowance of incentive expenses, he submitted that ad-hoc disallowances have been made, without pointing out any defect in the books of account and vouchers. Under these circumstances, he submitted that the disallowances have to be deleted.

3.2. The Id. D/R submitted that the AO verified the bills and vouchers and it is seen that most of the payments were made in cash and hence he doubted the genuinity of these claims of expenditure and made ad-hoc disallowance. He relied on the order of the AO and submitted that the disallowance be upheld as the AO has in his best judgement and discretion, based on the facts of the case, disallowed this expenditure.

3.3. The AO had made ad-hoc disallowance in the case of meeting expenses and incentive expenses. The total meeting expenses incurred is ₹65,16,934/- and incentive expenses incurred by the assessee is ₹54,00,000/-. While so, the AO disallowed ₹5,00,000/- on meeting expenses and ₹3,00,000/- on incentive expenses on ad-hoc basis. These disallowances have no legs to stand on. The general observation made by the AO that authenticity of the payment could not be relied upon etc. is not sufficient to disallow the claim of the assessee. He substituted his opinion to the facts. This cannot be permitted. No defects have been pointed out to the vouchers and books of account. Thus we delete both the ad-hoc disallowances of ₹5,00,000/- and ₹3,00,000/-. In the result, ground nos.-5 & 6 of the assessee are allowed.

4. In the result, the appeal filed by the assessee is allowed in part.

Kolkata, the 16th April, 2021.

Sd/-
[Aby T. Varkey]
Judicial Member

Dated: 16.04.2021

Bidhan (P.S.)

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Copy of the order forwarded to:

1. ***Shri Madan Mohan Mondal, Vill.-Tehatta (Bargidanga Para), P.O.-Tehatta, Dist.-Nadia, West Bengal-741 160.***
2. ***ACIT, Circle-43, Kolkata.***
3. CIT(A)-1, Kolkata. (sent through mail)
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches