

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

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER  
&  
SHRI RAVISH SOOD, JUDICIAL MEMBER**

**ITA No.3069/Mum/2018  
(Assessment Year :2014-15)**

M/s. Bharucha & Partners Cecil Court, 4 <sup>th</sup> Floor MK Bhushan Road Colaba, Mumbai-400039	Vs.	Assistant Commissioner of Income Tax-16(2) Mumbai Aayakar Bhavan Mumbai – 400 020
<b>PAN/GIR No.AAIFB4100C</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Mehli Golwala
Revenue by	Shri Tharian Oommen
<b>Date of Hearing</b>	<b>10/03/2021</b>
<b>Date of Pronouncement</b>	<b>21/04/2021</b>

**आदेश / ORDER**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No.3069/Mum/2018 for A.Y.2014-15 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-5, Mumbai in appeal No. CIT(A)-5/ACIT-16(2)/IT-272/2016-17 dated 09/01/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 24/12/2016 by the Id. Asst. Commissioner of Income Tax-16(2), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in restricting disallowance made on account of miscellaneous expenses and telephone / fax charges @5% as against 10% made by the Id. AO on adhoc basis in the facts and circumstances of the case.

3. We have heard rival submissions and perused the materials available on record. We find that assessee is a partnership firm engaged in the practice of legal profession. It had filed its return of income for A.Y.2014-15 on 29/09/2014 declaring total income of Rs. 5,35,03,831/-. The Id. AO during the course of assessment proceedings sought for details of miscellaneous expenses and telephone / fax charges, among others. We find that assessee had duly furnished the entire details comprising of original vouchers together with necessary supporting evidences. We find that the Id. AO without any basis simply concluded that the personal element of the aforesaid expenses cannot be ruled out and hence, 10% of the respective expenditure thereon was sought to be disallowed. Accordingly, a sum of Rs.2,96,969/- and Rs.3,48,349/- was disallowed by the Id. AO on account of miscellaneous expenses and telephone and fax charges. This disallowance was restricted to 5% by the Id. CIT(A) in first appeal. Aggrieved, the assessee is in appeal before us.

4. We find that the entire original vouchers together with the supporting documents were indeed furnished by the assessee for miscellaneous expenses and telephone and fax charges before the Id. AO during the course of assessment proceedings. The Id. AO did not observe any defect either in the vouchers or in the supporting documents or in the books of accounts furnished by the assessee. Hence, he ought not to have resorted

to make any disallowance on adhoc basis. Before us the Id. AR also pointed out that two senior partners of the assessee firm did not claim even their mobile expenses from the partnership firm. We find that this Tribunal had deleted the similar disallowance made in assessee's own case in ITA No.913/Mum/2018 for A.Y.2013-14 vide order dated 28/06/2019. Respectfully following the said decision, we direct the Id. AO to delete the disallowance made on account of miscellaneous expenses and telephone and fax charges. Accordingly, the ground Nos. 1 & 2 raised by the assessee are allowed.

5. The ground Nos. 3 & 4 raised by the assessee are with regard to chargeability of interest u/s.234B & 234C of the Act which are consequential in nature.

6. The ground No.5 raised by the assessee is general in nature and does not require any specific adjudication.

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

Order pronounced on 21/04/2021 by way of proper mentioning in the notice board.

**Sd/-**  
**(RAVISH SOOD)**  
JUDICIAL MEMBER

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 21/04/2021  
KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**