

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI
(Through Virtual Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1677/Del/2020
Assessment Year: 2018-19

Ranvik Exports Pvt. Ltd., 403, 2 nd Floor, Near Metro Station, Pillar No.119, MG Road, Ghitorni, New Delhi.	Vs.	DCIT, CPC, Bangalore.
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PAN: AAACR3800L

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Shri R.K. Gupta, Sr.DR
Date of Hearing	:	04.08.2021
Date of Pronouncement	:	04.08.2021

ORDER

This appeal by the assessee is directed against the ex parte order dated 11th September, 2020 of the CIT(A), Delhi, relating to Assessment Year 2018-19.

2. It is seen that the notice issued through RPAD has come back on the ground that the house of the assessee is locked on visit by the Postal Authorities on several days. Since the assessee has not intimated change of address, if any, therefore, this appeal is being disposed of on the basis of material available on record and after hearing the ld. DR.

3. Although a number of grounds of appeal have been raised by the assessee, these all relate to the ex parte order of the CIT(A) in confirming the various disallowances made by the CPC.

4. Facts of the case, in brief, are that the assessee is a private limited company. It filed its return of income on 30th October, 2018 declaring the total income at Rs.13,41,090/-. The tax audit report was also filed on 29th October, 2018 giving information as required. The CPC vide intimation NO.CPC/1819/A6/19499995545 u/s 143(1) dated 13.11.2019, added an amount of Rs.3,10,500/- on account of certain disallowances.

5. The assessee filed an appeal before the CIT(A). Due to covid situation, the assessee did not appear to file written submission. The Id.CIT(A) dismissed the appeal filed by the assessee by observing as under:-

ø4. DECISION : The contention of the Appellant has been considered and the order of AO has also been perused. The only issue contested by the appellant is the disallowance of Rs. 3,10,500/- u/s 37 of the IT Act. The expenses are of the nature of club expenses including entrance fees and subscriptions. It is seen from the order of the AO that the disallowances have been carried out based upon the report of the Auditor and the same were found reflected in Form No. 3CD. Therefore, this disallowance is hereby confirmed.ö

6. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:-

ø1. That on the facts and circumstances of the case section 143(1) did not give mandate to CPC to disallow the expenses debatable in nature. The disallowances cannot be made without ascertaining the nature of expenses, its utility, necessity in the business and judicial consensus. Hence order passed is invalid.

2. That on the facts and the circumstances of the case, the Ld. CIT(A) erred by not passing the speaking order in respect of issues raised pertaining to yearly entrance fee of Club amounting to Rs 310500/- and employees' contribution to ESI PF amounting to Rs 1802953/-. The Ld. CIT(A) has completely ignored the submission, additional ground, additional evidences filed during appellate proceeding. Hence, action of the appellate authority was not fair and justified in law.

3. The Ld. AO at CPC erred on facts and in law in making disallowance of Rs 1802953/- ignoring the fact that employees' contribution to ESI, PF is an allowable deduction under the provisions of Section 2(24)(x) read with section 43B & section 36(1)(va) of the IT Act, even if paid beyond the due date under the respective acts but before the due date of filing return as held by the Apex Court and the Jurisdictional High Court and hence beyond jurisdiction, liable to be struck down.

4. That on the facts and circumstances of the case It is wrong to suggest that auditor ever indicated disallowance of expenditure but not taken into account in computing the total income in the return-143(1)(a)(iv). Therefore, order passed is bad in law.

5. The appellant craves leave to add, alter or modify any of the grounds of appeal at the time of hearing.

7. I have heard the ld. DR and perused the record. I find, the order of the CIT(A) is very cryptic and has not addressed the grounds raised before him. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the CIT(A) with a direction to grant one more opportunity to the assessee to substantiate its case and decide the issue as per fact and law. Since the Covid situation has improved, the assessee is also hereby directed to appear before the CIT(A) and substantiate its case without seeking any adjournment under any pretext, failing which the ld. CIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court at the time of hearing itself, i.e., on 04.08.2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 4th August, 2021.

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Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi