

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

Before Sh. K. N. Chary, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 5360/Del/2017 : Asstt. Year : 2013-14

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| ACIT, Circle-18(2), New Delhi | Vs | Northern Power Electors Ltd., 904, New Delhi House, Barakhamba Road, Connaught Place, New Delhi |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AAACN0227F | | |

Assessee by : None

Revenue by : Sh. Gaurav Pundir, Sr. DR

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| Date of Hearing: 08.09.2021 |
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| Date of Pronouncement: 08.09.2021 |
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the revenue against the order of Id. CIT (A)-6, Delhi dated 23.06.2017.

2. Following grounds have been raised by the revenue:

"1. Whether on facts and in circumstances of the case, the Ld. CIT(A) is legally justified in deleting the disallowance of Rs. 1,81,50,000/- u/s 37 (1) of the Income Tax Act, 1961 (the Act) on account of 'job charges' by ignoring the fact that the assessee failed to discharge its onus u/s 37 (1) of the Act to prove that the expenses were incurred wholly and exclusively for the purpose of its business?"

2. Whether on facts and in circumstances of the case, the Ld. CIT(A) is legally justified in deleting the

disallowance of Rs. 1,81,50,000/- u/s 37 (1) of the Act on account of 'job charges' without recording material evidence of giving such relief?

3. Whether on facts and in circumstances of the case, the Ld. CIT (A) is legally justified in deleting the disallowance of Rs. 1,81,50,000/- u/s 37 (1) of the Act on account of 'job charges' by ignoring the fact that the assessee had failed to discharge its onus u/s 37 (1) of the Act even after providing sufficient opportunities to the assessee ?”

3. None attended on behalf of the assessee. Since, it is believed that dispensation of justice will not be delayed when the same can be indulged on going through the record, we hereby proceed with adjudication of the single issue of disallowance of expenses.

4. Facts of the case in brief are that the assessee e-filed return of income on 30.09.2013 declaring an income of Rs.91,42,604/-. The assessee is engaged in the field of service sector, contractors and trading etc.

5. As per the para no. 3.3 of the Assessment Order, we find that the disallowance of Rs.1.81 crores has been made by the AO being the 10% of the 'Job Work Expenses'. The AO held that 10% is being disallowed owing to the absence of supporting evidence in respect of increasing 'Job Work Charges'. For the sake of ready reference, the entire part of the Assessment Order on the relevant issue is reproduced as under:

"3. Disallowance of Job charges:

3.1 It was observed from the Profit and loss account for the year under consideration that wage/salary and

job charges were Rs. 24.60 crores as compared to last year Rs. 6.45 crores. Accordingly, vide questionnaire dated 14.01.2016, the assessee was asked to furnish the ledger account alongwith supporting evidence in respect expenses debited to Profit and Loss account amounting to Rs. 24.60 crores on account of wage/salary and job charges and also to justify the increase in expenses as compared to last year.

3.2 In response, the assessee furnished the reply on 22.03.2016 whereby enclosed ledger account of wages, salary and job charges. The AR in the said reply stated that the turnover of the company during the FY 12-13 has been increased to INR 6.74 crores as against the last F.Y 11-12 Rs. 36.53 crores. To execute more orders during company has incurred high labour cost in comparison to previous financial year ...

3.3 During the course of assessment proceedings, the vide note sheet entry dated the AR of the assessee was asked why increase of Rs. 18.15 crores in job work charges, 10% of expenses may not be disallowed in the absence of supporting evidence. In response to show cause the AR did not furnish the supporting evidence in respect of increase in job work charges. The onus is on the assessee to prove its claim along with supporting evidence, which the assessee has not been able to discharge. In view of

the above, it is held that the job work charges expenses claimed by the assessee are extremely excessive and therefore, 10% of such charges, which comes Rs. 1,81,50,000/-, are disallowed and added to the assessee's taxable income."

6. Before the Id. CIT (A), it was argued that the increase in 'Job Work Expenses' is directly proportional to the 'Job Work Revenue'. The details are as under:

| <i>Particulars</i> | <i>FY 12-13 (INR)</i> | <i>FY 11-12 (INR)</i> |
|---|-------------------------------|-------------------------------|
| <i>Revenue from</i> | <i>6,65,45,089.00</i> | <i>31,52,37,745.00</i> |
| <i>Revenue from Job Work</i> | <i>54,08,49,296.00</i> | <i>5,01,35,856.00</i> |
| <i>Total of Revenue</i> | <i>60,73,94,385.00</i> | <i>36,53,73,601.00</i> |
| <i>Wages. Salaries & Job Work (expense)</i> | <i>24,60,43,470.00</i> | <i>6,45,24,535.00</i> |

7. The Id. CIT (A) held that since the books of accounts have been duly audited, and since the AO found no discrepancy as such there is no specific reason for disallowance of expenses.

8. Before us, the Id. DR vehemently argued that the onus is casted upon the assessee to produce all the supporting evidences in respect of 'Job Work Charges' failing which the assessee has rightly disallowed 10% of the expenses. It was argued that the assessee failed to discharge his primary onus.

9. We have gone through the record and find that the turnover of the company increased from Rs.6.74 crores to Rs.36.53 crores and so as the expenses increased from Rs.6.45 crores to 24.60 crores. Hence, it can be said that the expenses have been increased proportionately. Further, the ledger and books of accounts have been examined by the Assessing Officer and no discrepancy could be brought out to the fore. Having

accepted the books of accounts, disallowing 10% of the expenses in general without bringing on record as to what and which of the expenses were not allowable. Hence, we decline to interfere with the order of the Id. CIT (A).

10. In the result, the appeal of the revenue is dismissed.
Order Pronounced in the Open Court on 08/09/2021.

Sd/-

(K. N. Chary)
Judicial Member

Dated: 08/09/2021

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR