

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)

ITA No. 107/Del/2019
(Assessment Year: 2015-16)

Bina Fashions N Food (P) Ltd, 53, Community Centre, New Friends Colony, New Delhi PAN: AABCB5582A	Vs.	ACIT, Circle-5(1), New Delhi
(Appellant)		(Respondent)

Assessee by :	Shri V. K. Bindal, CA Mrs. Rinki Sharma, ITP
Revenue by:	Mrs. Suman Malik, Sr. DR
Date of Hearing	25/11/2021
Date of pronouncement	25/11/2021

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the assessee against the order of the Id CIT(A)-II, New Delhi for Assessment Year 2015-16 dated 22.11.2018 wherein, the appeal filed by the assessee against the assessment order passed on 05.12.2017 u/s 143(3) of the Act by Id ACIT, Circle-5(1), New Delhi determining total income of the assessee at a loss of Rs. 21,78,090/- against the return loss of Rs. 1,08,73,780/-. The only issue in this appeal is that the Id CIT(A) has confirmed disallowance of Rs. 26,08,706/- on estimated basis being 15% on foreign travel expenditure incurred by Working Director of the assessee company.
2. The facts shows that the assessee is a company engaged in the business of running of restaurants, beauty parlour services and manufacturing and retailing of garment business. It filed this return of income on 26.09.2015 declaring loss of Rs. 1,08,73,780/-. The assessment order was passed wherein, the foreign travel expenditure incurred by the assessee amounting to Rs. 1,73,91,315/- were examined and 50% thereof were disallowed amounting to Rs. 86,95,688/- for the reason that the director would have taken foreign travel in respect of other companies as well against this disallowance the assessee preferred appeal before the Id CIT(A). He held that the disallowance of 50% is not called for. He retained the disallowance to the extent of 15% of the expenditure. The reason given by the Id CIT(A) was that neither the appellant has established a clear nexuses between travel and business nor the Id AO has

made detailed enquiry about the purposes of travels and evidence of business nexus. Thus, the assessee is in appeal before us. At the time of hearing the Id AR submitted that identical issue arose and in case of the assessee for Assessment Year 2014-15 and vide order 31.05.2019 the above disallowances was deleted. He further referred to the detailed paper book containing the details of foreign travel expenditure and supporting the evidence from page No. 1 to 294. Therefore, we find that identical issue involved in the appeal of the assessee for Assessment Year 2012-13 in ITA No. 610/Del/2016 for Assessment Year 2012-13.

3. The Id DR vehemently supported the order of the Id CIT(A).
4. We have carefully considered the rival contentions and find that in the earlier years the identical disallowances were made which were deleted by the coordinate bench. The latest order is with respect to Assessment Year 2014-15 wherein, vide order dated 31.05.2019 the disallowance out of foreign travel expenditure were deleted. There is no change in the facts and circumstances of the case. Further we find that identical issue involved in the appeal of the assessee for Assessment Year 2012-13 in ITA No. 610/Del/2016 for Assessment Year 2012-13. Therefore, respectfully following the decision in the case of the assessee's own case we direct the Id AO to delete the disallowances out of foreign travel expenditure. Further, the overwhelming evidence produced by the assessee in the paper book filed before us does not lead to any evidence for the expenditure incurred by the assessee were not wholly and exclusively for the purpose of the business. The disallowance made by the Id AO and partly confirmed by the Id CIT(A) were not based on any evidence that in part of such expenditure is not for the purpose of the business. Thus, we allow solitary ground of appeal of the assessee.
5. In the result, the appeal filed by the assessee is allowed.
Order pronounced in the open court on 25/11/2021.

-Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: 25/11/2021
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)

5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating member	
Date on which the typed draft is placed before the other member	
Date on which the approved draft comes to the Sr. PS/ PS	
Date on which the fair order is placed before the dictating member for pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	
date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	