

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ **ITA No.678/Chny/2018**
(निर्धारण वर्ष / **Assessment Year: 2014-15**)

M/s PT Express Lines Pvt. Ltd. 148, Perambur Barracks Road Purasawalkam, Chennai – 600 007.	बनाम/ Vs.	ITO Corporate Ward-5(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAACP-6191-J		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri S. Sridhar (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri G. Johnson (Addl.CIT) – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	06-12-2021
घोषणा की तारीख / Date of Pronouncement	:	03-01-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 is partially recalled matter since the appeal was initially disposed-off vide order dated 03-12-2018. However, since few grounds remained to be adjudicated, the order was recalled vide MP No.245/Chny/2018 dated 08-02-2019 for the limited purpose of adjudication of grounds Nos.3 to 5. Accordingly, the appeal has come up for fresh hearing before us for adjudication of Ground Nos. 3 to 5. The Ld. AR submitted that the

assessee is not pressing ground no.3 due to smallness of the amount.

The remaining grounds to be adjudicated by us read as under: -

4. The CIT(Appeals) erred in sustaining the disallowance of Rs.13,10,598/- being the bonus within the scope of section 43B of the Act in the computation of taxable total income without assigning proper reasons and justification.

5. The CIT(Appeals) erred in sustaining the disallowance of Rs.10,49,025/- being the gratuity within the scope of section 40A(7) of the Act in the computation of taxable total income without assigning proper reasons and justification.

4. Having heard rival submissions and after going through the orders of lower authorities, our adjudication to ground Nos.4 & 5 would be as under.

5. Ground No.4 : Disallowance u/s 43B for Rs.13.10 Lacs

During assessment proceedings, it transpired that the assessee reflected bonus payable at year-end for Rs.13.10 Lacs. This amount, as per the observation of Ld. AO, was not paid before due date of filing of return of income and therefore disallowed u/s 43B of the Act. During appellate proceedings, the assessee submitted that this amount was already paid before extended due date u/s 139(1) as supported by the certificate of assessee's Chartered Accountant. The extended due date for furnishing of return of income was stated to be 03.11.2014 as per CBDT F.No.153/53/2014-TPL. However, Ld.AO, in the remand report, observed that there was no supporting proof that the bank entries were actually bonus payments. Accordingly, the addition was upheld against which the assessee is in further appeal before us.

It is the submission of Ld. AR that the bonus has been paid well within due date which may be verified by Ld. AO. Keeping in view the same, we direct Ld. AO to verify this fact and if bonus found to have been paid

before extended due date of filing of return, delete the addition. This ground stand allowed for statistical purposes.

6. Ground No.5 : Disallowance of gratuity u/s 40A(7) for Rs.10.49

Lacs

The assessee reflected gratuity payable for Rs.10.49 Lacs which was added to its income as agreed addition u/s 40A(7). However, the assessee contested the same before Ld. CIT(A) and submitted that this balance was outstanding from earlier years and was already disallowed in AY 2013-14 itself. However, disregarding the same, Ld. CIT(A) confirmed the stand of Ld. AO against which the assessee is in further appeal before us. The Ld. AR has reiterated that no such expenditure was claimed during this year and the amount is outstanding from earlier years.

Keeping in view the submissions made, we direct Ld. AO to ascertain the fact that this amount was already disallowed in earlier years and no such expenditure was claimed by the assessee during this year. If so, this addition would stand deleted. This ground stand allowed for statistical purposes.

Conclusion

7. The appeal stand partly allowed for statistical purposes.

Order pronounced on 03rd January, 2022.

Sd/-

(V. DURGA RAO)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई / Chennai; दिनांक / Dated : 03-01-2022

EDN/-

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखक सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि प्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF