

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. Nos.3495 and 3470/Chny/2018
निर्धारण वर्ष/Assessment Years: 2012-13 & 2013-14

M/s. VPC Freight Forwarders Pvt. Ltd., Vs. The Assistant Commissioner of
No. 49, Bay View Towers, Third Floor, Income Tax, Corporate Circle 3(2),
Rajaji Salai, Chennai 600 001. No. 121, Nungambakkam High Road,
[PAN:AACCV3747N] Chennai 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Arjunraj, CA for
: Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 02.02.2022
घोषणा की तारीख /Date of Pronouncement : 10.02.2022

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against different orders of the Id. Commissioner of Income Tax (Appeals) 11, Chennai dated 19.09.2018 relevant to the assessment year 2012-13 and order dated 25.09.2018 for the assessment year 2013-14.

2. The first common ground relates to disallowance of foreign travel expenses. The assessee company has claimed an expenditure of ₹.9,33,034/- as foreign travel expenses in the assessment year 2012-

13 in respect of assessee company's CEO and his family members towards business purposes. Since the assessee has not filed any details to show that it was for the purpose of business, the Assessing Officer disallowed the entire expenditure claimed by the assessee of ₹.9,33,034/- and brought to tax.

2.1 Similarly, for the assessment year 2013-14 also, the Assessing Officer disallowed foreign travel expenses to the tune of ₹.18,80,220/-.

3. On appeal, after considering the submissions and various details furnished by the assessee, the Id. CIT(A) confirmed the disallowance made by the Assessing Officer for both the assessment years.

4. On being aggrieved, the assessee is in appeal before the Tribunal for both the assessment years. By filing the financial statements of various years, the Id. Counsel for the assessee has submitted that in view of keeping personal contacts after visiting various countries, there was substantial increase in the total turnover of assessee's business, it was prayed for deleting the addition made towards foreign travel expenses.

5. On the other hand, the Id. DR has dutifully supported the orders

of authorities below.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The Assessing Officer disallowed the entire claim of foreign travel expenditures incurred by the assessee company's CEO and his family members. On appeal, the Id. CIT(A) has verified the claim of foreign travel expenses incurred by the CEO and his family members. Since no justification for taking wife and children for foreign visit by the CEO of the assessee company was furnished, the Id. CIT(A) has observed that it would be difficult to allow the expenditures as legitimate business expenditure under section 37(1) of the Act and confirmed the disallowance made by the Assessing Officer. However, the Id. CIT(A) has not ruled out the business exigency of foreign travel of the assessee's CEO. By filing the financial statements of various years, the Id. Counsel for the assessee has submitted that in view of keeping personal contacts after visiting various countries, there was substantial increase in the total turnover of assessee's business, it was prayed for deleting the addition made towards foreign travel expenses. However, the assessee has not justified for making such claim in respect of family members of the CEO. Since there was business exigency and

moreover, there was substantial increase in the total turnover of assessee's business, we are of the considered opinion that disallowance of 50% of the claim would meet the ends of natural justice. Accordingly, we direct the Assessing Officer to allow 50% of foreign travel expenses claimed by the assessee for both the assessment years under appeal. Thus, the ground raised by the assessee is partly allowed.

7. The next ground raised in the appeal for the assessment year 2012-13 relates to confirmation of disallowance of expenditure on gold jewellery. The assessee has claimed an expenditure of ₹.9,95,966/- towards gold jewellery being business promotion expenses. Since the assessee could not prove the business purpose associated with the expenses, the Assessing Officer was of the opinion that the expenses claimed by the assessee is of personal nature and not incurred for the purpose of business and brought to tax. On appeal, the Id. CIT(A) confirmed the disallowance.

7.1 Before us, the Id. Counsel for the assessee has submitted that the assessee has incurred expenses towards purchase of jewellery gifts and compliments and offered to customers and other business

associates as a part of business promotion, which is absolutely a business expediency to overcome business competition and prayed for allowance of the expenses.

7.2 On the other hand, the Id. DR strongly supported the orders of authorities below.

7.3 We have heard the rival submissions. The contention of the assessee is that in order to compete in the market for the purposes of business expediency, the assessee has incurred expenditure towards purchase of jewellery gifts and compliments and offering to customers and other business associates as a part of business promotion, otherwise, the assessee will lose its business. However, personal usage of the jewellery gifts cannot be ruled out. Thus, we are of the opinion that disallowance of 50% of such claim would meet the ends of natural justice. Accordingly, we direct the Assessing Officer to allow 50% of the expenses claimed by the assessee. Accordingly, the ground raised by the assessee is partly allowed.

8. The next ground raised in the appeal for the assessment year 2012-13 relates to confirmation of disallowance of expenditure on hotels. The claim of hotel expenses for ₹.4,85,407/- towards sales

promotion was disallowed and brought to tax. On appeal, after considering the submissions of the assessee, the Id. CIT(A) allowed ₹.2 lakhs as necessitated for business promotion and balance expenditure of ₹.2,85,407/- was confirmed.

8.1 We have heard the rival contentions. The assessee claims to have incurred an expenditure of ₹.4,85,407/- towards business promotion expenses. The Id. CIT(A) has allowed ₹.2 lakhs as necessitated for business promotion and balance expenditure was confirmed. Before us, the Id. Counsel for the assessee has submitted that the expenses were incurred by the management through the staff on various occasions such as Diwali and New Year for customers and associates to facilitate smooth functioning of the business, which is very common in line with the business of the assessee and prayed for allowance of entire expenses incurred by the assessee. On perusal of the appellate order, we find that the Id. CIT(A) has considered the expenses necessitated for business promotion. Since incurring such expenses towards business promotion cannot be ruled out, we direct the Assessing Officer to allow the disallowance of 50% of ₹.2,85,407/- confirmed by the Id. CIT(A). Thus, the ground raised by the assessee

is partly allowed.

9. The next ground raised in the appeal of the assessee for the assessment year 2013-14 relates to confirmation of disallowance of expenditure of ₹.2,02,150/-. The assessee has claimed to have incurred expenditure of ₹.7,22,096/- in cash under various heads like C&F expenses, bill of entry processing, loading charges, clearance expenses, storage charges and assessment fee, etc. The Assessing Officer requested the assessee to produce the vouchers relating to the expenses. In response to the same, vouchers relating to expenditure of ₹.5,19,946/- were produced for verification. In respect of the balance amount of ₹.2,02,150/-, the AR stated before the Assessing Officer that the supporting documents relating to the said amount were not traceable. Since the assessee could not produce evidence for incurring expenditure of ₹.2,02,150/-, the Assessing Officer disallowed the same and brought to tax. On appeal, the Id. CIT(A) confirmed the disallowance since the assessee could not produce supporting evidence for the claim of expenses. Even before the Tribunal, the assessee has not produced any supporting evidence or the Id. Counsel for the assessee has claimed that the assessee is in a position to

produce the vouchers to support the expenditure claimed. In view of the above, the disallowance of expenditure confirmed by the Id. CIT(A) of ₹.2,02,150/- stands sustained.

10. In the result, both the appeals filed by the assessee are partly allowed.

Order pronounced on 10th February, 2022 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 10.02.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy 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.