

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

ITA No.420/SRT/2018 (AY 2012-13)

(Hearing in Virtual Court)

Omnibus Industrial Development Corporation of Daman & Diu and Dadra Nagar Haveli Ltd., Plot No.35, OI DC Corporate Office, Somnath, Nani Daman. PAN: AAACO 3361 K	Vs	The Commissioner of Income Tax-Appeal, Valsad.
Appellant/ Revenue		Respondent/ Assessee

Assessee by	Shri Paras F. Jain – AR
Revenue by	Mrs. Anupma Singla – Sr.DR
Date of hearing	23/11/2021
Date of pronouncement	10/02/2022

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the Assessee is directed against order of Id. Commissioner of Income Tax (Appeals)-Valsad dated 28.03.2018 for the Assessment Year (A.Y.) 2012-13. The Assessee raised following grounds of appeal:

- “1. The learned CIT(A) has erred both in law and on the facts of the case in confirming disallowance of the provision for Business Promotion/Entertainment Expenses amount Rs.2,59,320/-.*
- 2. Both the lower authorities have passed the orders without properly appreciating the fact and that they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned*

order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.

- 3. The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.”*
2. Brief facts of the case are that the assessee is a Government entity and engaged in the industrial development of Union Territory of Daman & Diu of Dadra Nagar Haveli, filed its return of income for the assessment year (A.Y.) 2012-13 declaring income of Rs.11.84 crore. The case was selected for scrutiny. During the assessment, the Assessing Officer (AO) noted that assessee noted that the assessee has shown expenses of Rs.2,59,320/-. The AO called the details of expenses by issuing notice under section 142(1). In response to notice, the assessee filed its reply dated 16.03.2015 along with the ledger extract. The AO noted that no formal bill or voucher is furnished. However, ongoing through the ledger extract, he found that a journal voucher of Rs.2,59,320/- narrating the provision for year 2011-12 and no details were furnished. The AO in absence of formal proof disallowed the expenses.
3. On appeal before the Id.CIT(A), the assessee filed detailed written submissions. In its submission submitted that during the year under consideration, the assessee incurred total business promotion expenses of

Rs.10,31,803/- out of which at the year-end a payment to the extent of Rs.2,59,320/- was outstanding and hence, same was provided by the assessee. The AO disallowed the expenses by taking view that no details were made available regarding the nature of expenses and party to whom the payments were made. The assessee explained that the expenses were incurred on sale promotion expenses for distribution of gift items on the occasion of Diwali Gift for which they have made payment of Rs.2,43,310/- to Alok Industries Ltd., Rs.15,000 to 2m Impression and Rs.1,010/- to Avni Trading Centre. The assessee furnished the ledger account of business expenses for Financial Year 2012-13 and copy of voucher and submitted that from the perusal of these documentary evidence it become clear that assessee has made actual payment for sale promotion expenses of Rs.2,59,320/-. On the submission of assessee, the Id.CIT(A) called Remand Report of the AO. The AO furnished his Remand Report dated 22.01.2018. In the Remand Report, the AO submitted that assessee made his own submission and accepted that they have made provision for these expenses at the yearend in F.Y.2011-12. As per the Income Tax Act, no deduction is allowable for any provision i.e. debited to Profit and Loss Account. The assessee has not furnished any proof to show that bills for these amounts

were received by assessee during the F.Y. 2011-12. The assessee filed its rejoinder submission vide submission dated 27.02.2018. In the rejoinder, the assessee contended that the total business promotion expenses of Rs.10,31,803/- and only Rs.2,59,320/- was outstanding at the end of year and to prove the payment, they furnished the copy of payment and voucher and copy of cheque issued to them, so the expenses are genuine and payment is made afterwards. The Id.CIT(A) after considering the submission of assessee, the Remand Report of AO and rejoinder of assessee held that in rejoinder reply, the assessee claimed that only Rs.2,59,320/- out of total sale promotion expenses of Rs.10,31,803/- was outstanding at the yearend. However, this fact was not proved by assessee during the remand proceedings as no evidence was furnished about the expenses. Therefore, he did not differ with the AO and confirmed the disallowance of Rs.2,59,320/-. Further aggrieved, the assessee has filed present appeal before this Tribunal.

4. We have heard the submission of the Id. Authorised Representative (Id.AR) of the assessee and the Id. Sr .Departmental Representative(Id.Sr.DR) for the Revenue and have gone through the orders of Lower Authorities carefully. The Id.AR of the assessee submits that assessee is a Corporation

being a Government Company and has shown returned income of Rs.11.84 crore and only to the expenditure of Rs.2,59,320/- incurred during the year for which provision has been made being outstanding at the close of the year, genuineness of which was not doubted despite submission of relevant evidence. The Id.CIT(A) confirmed the action of AO without giving any different finding. The assessee furnished the complete bifurcation of the expenses consisting of that amount of Rs.2,43,310/- was paid to Alok Industries vide cheque dated 30.04.2012 against the bill dated 19.10.2011, for Rs.1,26,337/- and cheque of Rs.11,16,937/- was paid against the bill dated 12.11.2011. The payment of Rs.15,000/- was paid to 2m Impression against the dated 25.10.2011 on which TDS of Rs. 300/- was made. Rs.1,010/- was paid to Avni Trade Centre against the bill dated 14.03.2012 and 19.03.2012 for Rs.510/- and Rs.500/- respectively. The amount is wrongly disallowed by the Lower Authorities.

5. On the other hand, the Id.Sr.DR for the Revenue supported the order of Lower Authorities.
6. We have considered the rival submission of both the parties and perused the material available on record. We have also appreciated various documentary evidence furnished by the assessee. We find that the assessee

claimed business promotion expenses of Rs.10.31 lakhs out of which the payment of Rs. 259320/- at the end of year was outstanding which was provided by the assessee. The AO disallowed the Rs.2,59,320/- for the want of evidence. The Id CIT(A) confirmed the action of AO by taking view that the assessee filed to prove its contention during the remand proceedings.

7. Before us, the assessee explained that they have made the payment through cheque except the payment of Rs.1,010/-. The assessee furnished bifurcation of expenses consisting that the amount of Rs.2,43,310/- was paid to Alok Industries vide cheque dated 30.04.2012 against the bill dated 19.10.2011, for Rs.1,26,337/- and cheque of Rs.1,16,937/- was paid against the bill dated 22.11.2011. The payment of Rs.15,000/- was paid to 2m Impression against the dated 25.10.2011 on which TDS of Rs. 300/-was made. Rs.1,010/- was paid to Avni Trade Centre against the bill dated 14.03.2012 and 19.03.2012 for Rs.510/- and Rs.500/- respectively.
8. We find that the Lower Authorities has not disputed the genuineness of expenses. Furthermore, the assessee is a Government owned Company, all the payments were made through cheques or after making TDS, except of Rs. 1010/-therefore, we find that the assessee has explained that nature of

expenses, therefore, we direct the AO to delete the entire expenses. In the result, the grounds of appeal raised by the assessee are allowed.

9. In the result, the grounds of appeal raised by the assessee are allowed.

Order announced on 10 February, 2022 by placing the result on the notice board.

Sd/-
(Dr ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Surat, Dated: 10/02/2022 /SGR*

Copy to:

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

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

By order

/ / TRUE COPY / /

Sr.Pvt. Secretary, ITAT, Surat