

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
BEFORE SHRI C.M. GARG, JM & SHRI ARUN KHODPIA, AM
आयकर अपील सं./ITA No.167/CTK/2020**

(निर्धारण वर्ष / Assessment Year :2014-2015)

OCP India Private Limited, Cuttack Puri Road, PO: Rasulgarh, Bhubaneswar Orissa-751010	Vs	ITO, Ward-1(3), Bhubaneswar
PAN No. : AAACO 3585 F		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri A.K.Sabat, CA
राजस्व की ओर से /Revenue by	:	Shri Sovesh Chandra Mohanty, Sr.DR

सुनवाई की तारीख / Date of Hearing	:	02/03/2022
घोषणा की तारीख/Date of Pronouncement	:	07/03/2022

आदेश / ORDER

Per Arun Khodpia, AM:

This appeal by the assessee is made against the order dated 28.04.2020, passed by the Id. CIT(A)-1, Bhubaneswar for the assessment year 2014-2015.

2. In this appeal, the assessee has raised two effective following grounds of appeal :-

- i) *Sustenance of disallowance of Puja Expenses amounting to Rs.33,036/-*
- ii) *Partial sustenance of disallowance under the major head "Other Expenses" on estimated basis of Rs.62,446/-.*

3. With regard to first ground, Id. AR submitted that the Puja Expenses of Rs.33,036/- claimed by the assessee are wholly and exclusively for the purpose of the business of the assessee. It was also submitted by the Id. AR that the AO has mis-appreciated the facts and the disallowance under

Puja expenses is based on irrelevant considerations, presumptions, conjectures and surmises, without any material evidence on record. The CIT(A) also has not considered the submissions of the assessee holding that the entire expenditure is also incurred in cash and it is not established that such expenses are not related to assessee's business. Ld. AR further drew our attention to the decision of Hon'ble Allahabad High Court in the case of Brijraman Das & Sons Vs. CIT (1983) 12 taxman.69 (All) and submitted that the Hon'ble High Court in the aforesaid case has held that Puja expenses are related to business and therefore, has been held to be allowable. It may be relevant to state that even providing a facility for employees to offer prayers in a temple within the premises of the factory of the assessee creates a goodwill among the employees which ultimately benefits the assessee-company. Therefore, the Id. AR submitted that the disallowance made by the AO and confirmed by the CIT(A) under the head puja expenses deserves to be deleted.

4. On the other hand, Id.CIT(A) relied on the orders of the authorities below.

5. After hearing both the parties and perusing the material available on record, we find that the AO while examining the profit and loss account for the year under consideration, found that the assessee-company has debited puja expenses of Rs.33,036/- under the major head miscellaneous expenses. The AO noted that the expenses claimed by the assessee are fully disallowable and not relatable to the business expediency of the assessee-company; therefore, he disallowed the same

and added to the total income of the assessee. We find that the assessee is engaged in the business of manufacturing of PSC Railway Sleepers, PSC Poles and execution of construction contract. Therefore, puja expenses are incurred by the assessee is for the smooth functioning of the business of the assessee under their religious belief, as discussed, cannot be disallowed. In similar circumstances, the Hon'ble Allahabad High Court in the case of Brijraman Das & Sons (supra) has held that the puja expenses are related to business and the same deserves to be allowed. Therefore, the addition made by the AO of Rs.33,036/- on account of puja expenses directed to be deleted. Thus, ground No.1 of the assessee is allowed.

6. Now, coming to the second ground, Id. AR submitted that the CIT(A) without specifically mentioning the individual bills, vouchers on which signature of the recipient were not found, has made estimated disallowance amounting to ten percent of the total expenditure, which is completely arbitrary and erroneous. Ld. AR also submitted that this bench has already in some of the cases has reduced the estimate made by the lower authorities to 5%, therefore, he prayed that the estimation done by the AO and confirmed by the CIT(A) deserves to be restricted to 5%.

7. On the other hand, Id. DR relied on the order of both the authorities below.

8. On perusal of the record and after hearing both the rival parties, we find that the AO disallowed the expenses claimed by the assessee estimating the same at 20% of the total expenses. In appeal, the CIT(A)

restricted the same to 10% of the total expenses which comes to Rs.62,446/-.We find that as per the requirement of the AO, the assessee furnished ledger copies in support of the expenses claimed under the major head other expenses. On perusal of the impugned appellate order, we find that the assessee has provided the copies bills and vouchers to substantiate its claim, however, in some of the bills vouchers do not contain the signature of the recipient. Considering the above facts and circumstances of the case and looking to the business of the assessee, in the interest of justice, we restrict the disallowance confirmed by the CIT(A) to 5%. Thus, this ground of assessee is partly allowed.

9 In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 07/03/ 2022.

Sd/-
(C.M.GARG)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 07/03/2022

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack