

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

(Through Virtual Court)

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI JAMLAPPA D BATTULL, ACCOUNTANT MEMBER

आयकरअपीलसं. / ITA No. 12/RPR/2017

निर्धारणवर्ष / Assessment Year : 2013-14

Shanti Parboiling Industries
Behind Doctor Somnath Sahu,
Ramsagar Para, Raipur (C.G.)

PAN : AAOFS5287P

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax-1(1),
Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri G.N Singh, DR

सुनवाईकीतारीख / Date of Hearing : 11.02.2022

घोषणाकीतारीख / Date of Pronouncement : 06.04.2022

आदेश/ ORDER**PER RAVISH SOOD, JM :**

The present appeal filed by the assessee is directed against the order passed by the CIT(Appeals)-1, Raipur, dated 13.10.2016, which in turn arises from the order passed by the A.O under Sec.143(3) of the Income-tax Act, 1961(in short 'the Act'), dated 11.02.2016 for assessment year 2013-14. Before us the assessee has assailed the impugned order on the following grounds of appeal:

- "1. The learned CIT(A) has erred in allowing the disallowance of expenditure of Rs.1,27,391/- on account of Final Settlement Expenses which is bad in law as well as on the facts and circumstances of the case which may kindly be deleted.
2. The learned CIT(A) has erred in allowing the disallowance of expenditures of Rs.35077/- on account of car and Telephone expenses which is bad in law as well as on the facts and circumstances of the case which may kindly be deleted.
3. The order of the learned CIT(A) is erroneous both in law and on facts.
4. The appellant may be allowed the relief prayed for.
5. The appellant craves leave to add, amend or alter any ground(s) of appeal with due permission".

2. Succinctly stated, the assessee firm which is engaged in the business of Rice Milling had filed its return of income for the assessment year 2013-14 on 05.10.2013, declaring a total income of

Rs.19,08,570/-. The assessment was, thereafter, framed by the Assessing Officer vide his order passed u/s.143(3) of the Act, dated 11.02.2016 determining the income of the assessee at Rs.19,08,570/- i.e., after making the following additions/disallowances:

Sl. No.	Particulars	Amount
1.	Disallowance of the assessee's claim of expenditure booked under the head "Final Settlement Expenses"	Rs.6,36,959/-
2.	Disallowance on ad-hoc basis 20% out of Car and Telephone Expenses	Rs.35,077/-

3. Aggrieved, the assessee carried the matter in appeal before the CIT(Appeals) but without any success.

4. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before us. As the assessee appellant despite having been intimated about the hearing of appeal has failed to put up an appearance before us, therefore, we are constrained to proceed with and dispose off the appeal as per Rule 24 of the

Appellate Tribunal Rules, 1963, i.e, after hearing the respondent revenue and perusing the orders of the lower authorities.

5. As regards the disallowance of the assessee's claim for deduction of "Final Settlement Expenses" of Rs.6,36,959/-, we find that the Assessing Officer after observing that the assessee had failed to place on record any material to substantiate his aforesaid claim for deduction of expense had on an ad hoc basis disallowed 20% of the same i.e. an amount of Rs.1,27,391/.

6. On a perusal of the orders of the lower authorities, we find that the assessee on being queried as regards the nature of the aforesaid expenditure, viz. "Final Settlement Expenses", had therein submitted that the same was booked at the time of final payment when buyer would retract from the 'payment agreed upon'. It was claimed by the assessee that the aforesaid expenditure could vary each year and was dependent on multiple factors. Observing, that the assessee had failed to discharge the 'onus' that was cast upon him as regards proving the allowability of its claim for deduction of the expenditure in question on

the basis of supporting documentary evidences, the Assessing Officer had disallowed 20% of the aforesaid expenditure amounting to Rs.1,27,391/-. On appeal, the CIT(Appeals) finding no infirmity in the view taken by the Assessing Officer had upheld the disallowance made by him.

7. After having given a thoughtful consideration to the aforesaid issue we find no infirmity in the view taken by the lower authorities. In our considered view, as the assessee had failed to substantiate the nature of the aforesaid expenditure which was claimed by him as a deduction therefore, the lower authorities had in all fairness disallowed 20% of the said amount. We, thus, concur with the view taken by lower authorities as regards the aforesaid issue in question and uphold the same. Thus, **Ground of appeal No.1** raised by the assessee is dismissed in terms of our aforesaid observations.

8. Now, we shall deal with the grievance of the assessee that the lower authorities have erred in disallowing on an ad-hoc basis 20% of

its claim for deduction of Telephone expenses of Rs. 67,444/- and Car expenses of Rs.1,07,941/-.

9. On a perusal of the assessment order, we find that the AO taking cognizance of the fact that the assessee firm had not maintained any log book, therefore, held a conviction that incurring of expenditure in the personal field by the partners of the assessee firm could not be ruled out. It was observed by the Assessing Officer that at Column No.17(b) of the Audit Report it was categorically observed by the auditor that incurring of the personal expenditure cannot be ruled out. Noticing that the assessee had failed to substantiate its claim that no part of the expenditure in question could be attributed towards personal field of the partners, the Assessing Officer worked out the disallowance @20% of the aforesaid expenses i.e, at an amount of Rs.35,077/-. On appeal, the CIT(Appeals) finding no infirmity in the view taken by the Assessing Officer upheld the aforesaid disallowance of expenses.

10. We have given a thoughtful consideration to the aforesaid issue in hand, and are of the considered view that as the lower authorities have rightly observed that the personal element qua incurring of the aforesaid expenses could not be ruled out, therefore, a part of the same was liable to be disallowed on the said count. Considering the reasonableness of the disallowance i.e. 20% of the respective expenses, we find no reason to interfere with the view taken by the lower authorities. Thus, the **Ground of appeal No.2** raised by the assessee is dismissed in terms of our aforesaid observations.

11. In the result, appeal of the assessee is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 06th day of April, 2022.

Sd/-
JAMLAPPA D BATTULL
ACCOUNTANT MEMBER

Sd/-
RAVISH SOOD
JUDICIAL MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 06th April, 2022
SB

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G)
4. The Pr. CIT-1, Raipur (C.G)
5. विभागीयप्र तिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

		Date	
1	Draft dictated on	29.03.2022	Sr.PS/PS
2	Draft placed before author	30.03.2022	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		