

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. 07/RPR/2017

निर्धारणवर्ष / Assessment Year : 2013-14

M/s. Sunita Finlease Limited
2/509, Choubey Colony,
Opp. Rajkumar College,
G.E Road, Raipur (C.G.)

PAN : AADCS2759J

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-2(1), Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by
Revenue by

: Shri Prafulla Pendse, AR
: Shri G.N Singh, DR

सुनवाई की तारीख /Date of Hearing : 11.02.2022
घोषणा की तारीख / Date of Pronouncement : 10.05.2022

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 21.10.2016, which in turn arises from the order passed by the A.O under Sec. 143(3) of the Income Tax Act, 1961 (for short 'the Act') dated 17.02.2016 for assessment year 2013-14. Before us the assessee has assailed the impugned order on the following grounds of appeal:

- “1. That the order of the Ld. CIT(A) is bad in law as well as on facts.
2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in sustaining the following additions/disallowances:
 - A. Rs.1,50,000/- out of claim of Travelling Expenses of Rs.14,49,603/-
 - B. Rs.50,000/- out of claim of communication expenses of Rs.8,36,570/-
 - C. Rs.50,000 out of Vehicle Running Expenses of Rs.3,96,347/-
 - D. Rs.30,000/- out of claim of depreciation of Vehicles covered by Rs.7,59,509/-
3. That any other relief/deduction which the Hon'ble Tribunal may deem fit be granted to your appellant.
4. That the appellant craves leave to urge, add, amend, alter, enlarge, modify, substitute, delete any of the ground or grounds and to adduce fresh evidence at the time of hearing of the appeal.

5. That suitable cost be, if any, be allowed to your appellant.”

2. Succinctly stated, the assessee company which is engaged in the business of tea brokerage had e-filed its return of income for assessment year 2013-14 on 27.09.2013, declaring an income of Rs. Nil. Subsequently, the case of the assessee was selected for scrutiny assessment u/s. 143(2) of the Act.

3. Assessment was, thereafter, framed by the Assessing Officer vide his order passed u/s.143(3), dated 17.02.2016 after, inter alia, making the following ad hoc disallowances out of the expenditure claimed by the assessee company :

Sl. No.	Particulars	Amount
1.	Out of claim of Travelling Expenses of Rs.14,49,603/-	Rs.1,50,000/-
2.	Out of claim of communication expenses of Rs.8,36,570/-	Rs. 50,000/-
3.	Out of Vehicle Running Expenses of Rs.3,96,347/-	Rs. 50,000/-
4.	Out of claim of depreciation of Vehicles of Rs.7,59,509/-	Rs. 30,000/-

After making the aforesaid disallowances, the A.O vide his order passed u/s.143(3) dated 17.02.2016 assessed the gross income of the assessee at Rs.2,41,22,793/-, which after set-off against the brought forward losses was reduced to Rs. Nil.

4. Aggrieved, the assessee assailed the aforesaid disallowance of expenses before the CIT(Appeals). However, the CIT(Appeals) not finding favor with the contentions that were advanced by the assessee before him i.e, to the extent it had assailed the disallowances of expenses, sustained the same.

5. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before us.

6. We have heard the Ld. Authorized Representatives of both the parties, perused the orders of the lower authorities and material available on record. On a perusal of the assessment order, we find that the A.O had on an ad-hoc basis disallowed an amount of Rs. 1,50,000/-

out of the assessee's claim for deduction of travelling expenses of Rs.14,40,603/-. On a perusal of the records, we find that the aforesaid disallowance was made by the AO for three fold reasons, viz. (i) that the assessee company had incurred most of the expenses in cash and the same were not supported by proper bills and vouchers; (ii) proper bills and details of expenses regarding travelling by the employees have not been maintained; and (iii) the involvement of personal element in the tour and travels undertaken by the directors of the assessee company could not be ruled out.

7. In so far the observation of the A.O that the assessee company had failed to produce proper bills and vouchers, as well as had not maintained proper bills in respect of the traveling expenses of its employees, we find the same are merely in the nature of general observations and not a single instance of any such bill/voucher or details suffering from any infirmity had been referred to by him while making the aforesaid disallowance. Accordingly, we are unable to concur with the aforesaid reasoning of the A.O. for making the disallowance in

question which thereafter had been sustained by the CIT(Appeals). As regards the observation of the A.O that the involvement of personal element in the tours and travels of the directors of the assessee company cannot be ruled out, we are unable to persuade ourselves to subscribe to the same. As the assessee before us is a company, i.e, a distinct assessable entity as per the definition of "person" contemplated in Sec. 2(31) of the Act, therefore, being an inanimate person there cannot be anything personal about such entity. Our aforesaid view is fortified by the judgment of the Hon'ble High Court of Gujarat in the case of Sayaji Iron And Engg. Co. Vs. CIT (2002) 253 ITR 749 (Guj). We, thus, in terms of our aforesaid observations vacate the ad-hoc disallowance of Rs.1,50,000/- made by the A.O out of travelling & conveyance expenses.

8. As regards the disallowance of Rs.50,000/- out of the assessee's claim for deduction of vehicle running and maintenance expenses of Rs.3,96,347/-, we find that the reasons leading to the aforesaid ad-hoc disallowance are no better than those as were there before us as regards its claim for deduction of travelling expenses. On a perusal of the

assessment order, we find that the A.O had made an ad-hoc disallowance of Rs.50,000/- out of vehicle running and maintenance expenses, for the reason that the assessee had incurred the expenses in cash and the same were not supported by proper bills/vouchers. In so far the aforesaid general observations of the A.O are concerned, we are unable to concur with the disallowance made by the A.O. on the basis that they are not supported by any material. As regards the observation of the A.O that the personal usage of the vehicles and the consequential expenses towards running and maintenance expenses of the vehicles cannot be ruled out, we are of the considered view, that as the assessee is a company, i.e, a distinct assessable entity therefore, being an inanimate person there cannot be anything personal element qua incurring of running and maintenance expenses of its vehicles. In view of our aforesaid observations we vacate the ad-hoc disallowance of Rs.50,000/- made by the A.O.

9. Adverting to the ad-hoc disallowance of Rs.50,000/- made by the A.O. out of communication expenses of Rs.8,36,570/-, we find that the

same had been made for the reason that as per the A.O. the involvement of personal element in usage of telephones and mobiles by the assessee company cannot be ruled out. On the basis of our aforesaid observations that an assessee company is a distinct assessable entity, i.e an inanimate person, therefore, no disallowance on account of personal expenditure could have been validly made, we vacate the aforesaid ad-hoc disallowance of Rs.50,000/- made by the A.O.

10. In so far the ad-hoc disallowance of Rs.30,000/- out of depreciation on vehicles amounting to Rs.7,59,509/- is concerned, we are of the considered view that now when for the reasons discussed by us hereinabove the disallowance of vehicle running and maintenance expenses had been ruled out by us, therefore, backed by the said reasoning no part of ad-hoc disallowance of depreciation on account of personal usage of the vehicles by the directors can be sustained.

11. We, thus, in terms of our aforesaid observations vacate the disallowance aggregating to Rs.2.30 lac made by the A.O and

accordingly, set-aside the order of the CIT(Appeals) who had sustained the same.

12. In the result, appeal of the assessee is allowed in terms of our aforesaid observations.

Order pronounced in open court on 10th day of May, 2022.

Sd/-
JAMLAPPA D BATTULL
ACCOUNTANT MEMBER

Sd/-
RAVISH SOOD
JUDICIAL MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 10th May, 2022

SB

आदेश की प्रतिलिपि अग्रेषित / 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. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्डफाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

		Date	
1	Draft dictated on	04.05.2022	Sr.PS/PS
2	Draft placed before author	04.05.2022	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		