

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 1655/DEL/2021
[Assessment Year: 2017-18]

Agarwal Print Media, C-12, Garh Road Janta Nagar, Meerut-250002. PAN- AASFA5374P	<u>Vs</u>	Income-tax Officer, Ward-1(1)(1), Meerut.
APPELLANT		RESPONDENT
Appellant by	Sh. Devashish Bhadouria, Adv. & Sh. Shamsher Singh, Adv.	
Respondent by	Sh. Om Prakash, Sr. DR	
Date of hearing	25.05.2022	
Date of pronouncement	07.06.2022	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 15.09.2021, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

“1. That the Ld. CIT(A) has committed manifest error of law, facts and evidences by ignoring and not passing the speaking and reasoned order on the ground raised by appellant that impugned assessment order dated 23/12/2019 passed by the Learned Assessing Officer u/s 143(3) of the I.T.

Act, 1961 is against the fact and law of the case, wholly illegal and without jurisdiction liable to be quashed in toto.

2. *That the Ld. CIT(A) has committed manifest error of law, facts and evidences by ignoring and not passing the speaking and reasoned order on the ground raised by appellant that on the facts and circumstances of the case the impugned order dated 23/12/2019 has been passed by the Learned Assessing Officer in a very hurried manner without affording any reasonable opportunity to appellant and thereby principles of natural justice have thus been grossly violated in the present case.*

3. *That the Ld. CIT(A) has committed manifest error of law, facts and evidences by ignoring and not passing the speaking and reasoned order on the ground raised by appellant that on the facts and circumstances of the case the impugned assessment order passed by the Learned Assessing Officer dated 23/12/2019 by making addition of Rs. 3,00,000.00 under the head Salaries and Wages, Addition of Rs. 1,00,000.00 under the head Other Expenses and Addition of Rs. 1,00,000.00 under the head Job Work, thereby Total addition made of Rs. 5,00,000.00 in different heads, are based on conjecture, surmise and presumptions and not hard rock of facts and liable to be annulled in toto.*

4. *That the Ld. CIT(A) has committed manifest error of law, facts and evidences by ignoring and not passing the speaking and reasoned order on the ground raised by appellant that on the facts and circumstances of the case the impugned assessment order passed of Learned Assessing Officer is not in conformity with the spirit of law and the judgment of various Courts.*

5. *That the Ld. CIT(A) has committed manifest error of law in disposing the appeal in a very casual and summary manner without affording any opportunity of hearing to appellant before disposal of the appeal.*

6. *That the appellant craves leave for reserving the right to alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”*

2. The only effective ground in this appeal is against sustaining the addition of Rs. 5 lakh made on account of ad hoc disallowance of expenditure pertaining to salary & wages; job work and other expenses.

3. The facts giving rise to the present appeal are that in this case assessee is a partnership firm and filed its return of income declaring income at Nil. The case was selected for scrutiny assessment and the assessment U/s 143(3) of the Income Tax Act, 1961, hereinafter referred to as the "Act" was framed vide order dtd 23.12.2019. The Assessing Officer while framing the assessment made ad hoc disallowance of Rs. 3,00,000/- out of salary & wages expenses; Rs. 1,00,000/- out of other expenses; and Rs. 1,00,000/- out of job work. Hence, the Assessing Officer computed income in paras 7 & 8 of the assessment as under:

7. *In view of above, the income of the assessee is thus computed as under:*

<i>Profit as per P&L Account</i>		<i>Rs. 41,35,161/-</i>
<i>Add:</i>		
<i>Depreciation debited in P&L A/c</i>	<i>:</i>	<i>Rs. 99,28,159/-</i>
<i>Addition as per para 4 above</i>	<i>:</i>	<i>Rs. 3,00,000/-</i>
<i>Addition as per para 5 above</i>	<i>:</i>	<i>Rs. 1,00,000/-</i>
<i>Addition as per para 6 above</i>	<i>:</i>	<i>Rs. 1,00,000/-</i>
<i>Less:</i>		
<i>Depreciation u/s 32</i>	<i>:</i>	<i>Rs. 1,07,96,337/-</i>
<i>Total taxable income</i>	<i>:</i>	<i>Rs. 37,66,983/-</i>
<i>Less:</i>		
<i>Unabsorbed Depreciation</i>	<i>:</i>	<i>Rs. 37,66,983/-</i>
<i>Total taxable income</i>	<i>:</i>	<i>Nil</i>

8. *Assessed at an income of Rs. Nil. Issue notice of demand and challan."*

4. Aggrieved against this, the assessee preferred appeal before the learned CIT(Appeals), who sustained the addition. Now the assessee is in appeal before this Tribunal.

5. Learned counsel for the assessee at the outset submitted that the expenses have been made purely on conjectures and surmises. Such ad hoc disallowances deserve to be deleted. Learned counsel further reiterated the submissions as made in the written submissions and stated that in the current year net profit with reference to turnover has been increased to 5.30% as against 1.35% of preceding year. It is further contended that the assessee discharged its onus by bringing on record complete details of the expenses incurred and there is no allegation of the bogus expenditure. It is further stated that the assessee firm maintains books of account, cash book, ledger bill etc. which have been duly audited. For the sake of clarity the brief synopsis of the assessee is reproduced hereunder:

- “1. This is a case of registered firm engaged in publishing and printing.
2. The main issue in appeal is disallowance of certain expenses aggregating to Rs. 5,00,000/- on ad hoc basis. ('Salary and Wages' - Rs. 3,00,000/-, 'Other expenses' - Rs. 1,00,000/- and 'Job work' - Rs. 1,00,000/-).
3. That assessee firm maintained books of accounts viz. cash book, ledger, bills and vouchers etc. which have duly been audited by the C.A. The audit report alongwith financial statements were filed before the A.O.
4. That the assessee firm also filed complete details of expenses along with Ledger accounts thereof and also produced related bills and vouchers before the Ld. A.O..

5. *That the assessee did not claim salary and wages on proportionate basis in P&I Account as has wrongly been alleged by the Ld. A.O.*
6. *That the Ld. A.O. neither rejected books of accounts nor pointing out any defects in books of accounts, bills and vouchers maintained for impugned expenses.*
7. *That the A.O./ Ld. CIT (Appeal) has not pointed out any expenditure of personal nature relating to partner or employee of the assessee firm. The expenditure were used exclusively for business purposes.*
8. *That a perusal of Page No. 8 of Audit Report dated 26-10-2017 for A.Y. 2017-18 shows that in current year net profit with reference to turnover has been increased to 5.30% as against 1.35% of preceding year(i e. A.Y. 2016-17).*
9. *That the Ld. A.O. did not provide any opportunity to the assessee for calling further specific details of impugned expenses. Thus, it is the violation of principal of Natural Justice.*
10. *That assessee has discharged its onus by bringing on records complete details of the expenses incurred and there is no allegation by the A.O./ Ld. C.I.T. (Appeal) that the assessee claim any bogus expenditure or any attempt is made to defraud Revenue.*
11. *That making of estimation or disallowance of expenses on ad hoc basis is not permissible under the law.*

Tripat Kaur Vs A.C.I.T (2012) ITAT Delhi in ITA No. 3244/Del/2012.

12. *That without pointing out any defects in books of accounts or vouchers maintained for such expenses, ad hoc disallowance of impugned expenses is not warranted.*
 - i. *TUV India Pvt. Ltd. Vs D.C.I.T (ITAT- Mumbai) in ITA No. 6628/Mum/2017 dated 20-08-2019 A.Y. 2011-12 - 75 ITR 364 (2019).*
 - ii. *ACIT, Circle-5(1) Vs Modi Rubber Limited (ITAT- New Delhi) in ITA No. 1952/DEL/2014 dated 15-05-2018 A.Y. 2009-10*

That in the interest of the justice, the impugned disallowance of expenses amounting to Rs. 5,00,000/- may kindly be deleted.”

6. On the contrary, learned DR opposed the submissions.

7. I have heard rival submissions, perused the material on record and gone through the orders of authorities below. There is no dispute with regard to the fact that the three items of the expenses have been disallowed on estimate basis. The basis of such disallowances is said to be incompleteness of the bills and vouchers. However, the Assessing Officer has not pointed out as to which bills and vouchers were found to be wanting. Learned counsel for the assessee has relied upon the decision of the Tribunal rendered in the case of Tripat Kaur Vs. ACIT in ITA no. 3244/Del/2012 dated 07.09.2012, wherein the Tribunal has held as under:

“6. We have heard the rival contentions in light of the material produced. We find that the addition on account of travelling expenses was totally based on surmises and conjectures. Assessing Officer has not brought on record any cogent basis as to why this expenditure was to be disallowed. It is not the case that expenditure was considered to be bogus or any shortcoming in the vouchers in this regard was observed by the Revenue. Under the circumstances, we hold that estimated addition without any basis cannot be sustained. In this regard, the case law relied upon by the Ld. Counsel of the assessee in the case of the ITO vs. Lake Palace Hotels and Motels (P) Ltd. 13 TJJ (JP) 216 is germane. In this case, it was held that the travelling expenses and salary expenses, addition made on estimate basis cannot be justified. Moreover, disallowance is also not justified merely on the ground that similar disallowance was made in the previous year. Accordingly, in the background of the aforesaid discussions and precedent, we hold that the addition on account of travelling expenses is liable to be deleted and hence, we set aside the ITA NO. 3244/Del/20i2 orders of the authorities below and decided the issue in favour of the assessee.”

8. The facts in the present case are similar. In the present case also the assessing authority has disallowed the expenses purely on the basis of estimation

without specifying the instances where the vouchers were found to be incomplete or missing. Therefore, respectfully following the binding precedence, I direct the Assessing Officer to delete the addition. Grounds of appeal are allowed.

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

Order pronounced in open court on 7th June, 2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI