

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'H' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.3864/Del./2019
(ASSESSMENT YEAR : 2011-12)**

**ITA No.3865/Del./2019
(ASSESSMENT YEAR : 2014-15)**

M/s. Imperial Auto Industries Ltd.,
C/o RRA Taxindia,
D-28, South Extension, Part I,
New Delhi – 110 049.

vs. DCIT, Central Circle 1,
Faridabad.

(PAN : AAACI0645J)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Somil Aggarwal, Advocate
REVENUE BY : Ms. Anupama Singla, Senior DR

Date of Hearing : 06.06.2022
Date of Order : 08.06.2022

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

These are appeals by the assessee against the respective orders of the ld.
CIT (Appeals) for the concerned assessment years.

2. Since appeals were heard together, these are being disposed off by this
common order.

ITA No.3864/Del/2019 (AY 2011-12)

3. In this appeal, assessee has challenged the confirmation of penalty levied under section 271(1)(c) of the Income-tax Act, 1961 (for short 'the Act') amounting to Rs.3,57,136/-.

4. At the outset before us, ld. counsel of the assessee submitted that the quantum addition in this case has been already deleted by ITAT vide order dated 26.02.2020 in ITA No.6633/Del/2016 for AY 2011-12. Hence this penalty u/s 271(1)(c) levied with reference to those additions does not survive. Ld. DR of the Revenue could not rebut this proposition. Hence since quantum addition has been deleted, we set aside the order of Revenue authorities levying penalty u/s 271(1)(c) on those additions.

5. In the result, assessee's appeal is allowed.

ITA No.3865/del/2019 (AY 2014-15)

6. The Assessing Officer (AO) in his order made ad hoc disallowance as under :-

“2.3 Business/sales Promotion :- The assessee has claimed Rs. 81,28,031/- as business/sales promotion expenses. The assessee was asked to submit the detail of these expenses. On going through the details, it was found that part of the said expenses were of such nature which has no direct nexus with the business of the assessee. The A.R. was, therefore, asked to establish that the said expenses were incurred wholly and exclusively for the business purposes.

In response thereto, assessee has submitted that expenses are very much genuine but a part of these expenses may be disallowed treating the same for non-business purposes. Accordingly a lump-sum amount of Rs.8,20,000/- is added to the total income of the assessee.”

7. Upon assessee's appeal, ld. CIT (A) noted the assessee's submission that the AO also has not given any justification nor pointed any specific expense claimed by the assessee but not exclusively for business purposes. Hence he reduced the deduction to half of it i.e. Rs.4,10,000/-.
8. Against the above order, assessee has filed appeal before the ITAT.
9. We have heard both the parties and perused the records.
10. Ld. counsel of the assessee pleaded that similar disallowance in earlier year in assessee's own case has been deleted by ITAT, hence he pleaded that the addition cannot be sustained.
11. Per contra, ld. DR for the Revenue relied upon the order of ld. CIT(A).
12. Upon careful consideration, we note that the disallowance has been made on ad hoc basis without any specific defect pointed out. The same is based on surmises and conjectures, hence cannot be sustained. Moreover, ITAT in assessee's own case for AY 2010-11 vide order dated 14.09.2018 has deleted such addition on the ground of absence of specific identification of defect. Hence, we set aside the order of the ld. CIT (A) and decide the issue in favour of the assessee.
13. In the result, the assessee's appeal is allowed.

Order pronounced in the open court on this 8th day of June, 2022.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated the 8th day of June, 2022
TS

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.
