

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A': NEW DELHI**

**BEFORE,  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.8579/Del/2019  
(ASSESSMENT YEAR 2016-17)**

Azad Impex Private Ltd. 73-19-2,22-1, Village Mundka, Delhi.  PAN- AAGCA3476P <b>(Appellant)</b>	Vs.	ACIT Circle-3(2), New Delhi  <b>(Respondent)</b>
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Appellant By	None
Respondent by	Shri Kanav Bali, Sr. DR

**ORDER**

**PER ANADEE NATH MISSHRA, AM:**

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-I, New Delhi [Ld. CIT(A)”, for short], dated 30.08.2019 for Assessment Year 2016-17. Grounds taken in this appeal of Assessee are as under:

*“1. On the facts and circumstances of the case, the order passed by the Learned CIT(A) is bad both in the eye of law and on facts.*

*2(i) On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the disallowance of Rs. 6,30,791/- on account of consumables and miscellaneous expenses.*

*(ii) That the disallowance has been confirmed @ 10% of the whole expenditure, without there being any basis for the same.*

*(iii) That the disallowance has been confirmed arbitrarily rejecting the explanation and evidences brought on record by the assessee.”*

(B) Vide assessment order dated 20.12.2018 passed by the Assessing Officer ('AO' for short) under Section 143(3) of the Income Tax Act, 1963 ('IT Act' for short); the assessee's income was assessed at Rs.1,06,86,610/- as against returned income of Rs.98,98,190/-. In the aforesaid assessment order, an addition of Rs.7,88,490/- was made on account of disallowance out of expenses under the heads 'Consumables' and 'Miscellaneous Expenses'. The disallowance was made @ 1/8<sup>th</sup> of expenses totaling Rs.63,07,917/- under the aforesaid heads. The aforesaid *ad hoc* and estimated disallowance was made by the Assessing Officer in a summary and non speaking manner with cryptic remarks as under:

*“Considering the non-verifiability of certain entries of the aforesaid expenses, a disallowance of 1/8<sup>th</sup> of the aforesaid expenses is being made and added to the total income of the assessee company.”*

(B.1) Aggrieved, the assessee filed appeal before Ld. CIT(A). Vide impugned appellate order dated 30.08.2019, the Ld. CIT(A) granted a relief of Rs.1,57,699/- out of aforesaid addition of Rs.7,88,490/- by restricting the disallowance to 10% of aforesaid amount of Rs.63,07,997/-. The relevant portion of the order of the ld. CIT(A) is reproduced as under:

*“7.1 ..... During the course of appellate proceedings, ld. AR has stated that the above expenses related to business expenditure only. Ld. AR has also stated that the appellant in order to substantiate the genuineness of the expenses, filed ledger accounts of all such expenses and produced the bills and vouchers of those expenses before the AO. Considering the facts of the case, I am of the view that it would be reasonable and proper to restrict the disallowance to Rs.6,30,791/- being 10% of above expenses instead of Rs.7,88,490/-. Thus the appellant gets a relief of Rs.1,57,699/-  
.....”*

(B.2) Aggrieved again, the assessee-company has filed this present appeal in the Income Tax Appellate Tribunal. At the time of hearing before us, the assessee-company was not represented. In the absence of any representation from the appellant-assessee, we heard learned ld. Senior Departmental Representative for Revenue ('Ld. Sr.D.R.' for short). He left the matter regarding the aforesaid disallowance of Rs.6,30,791/- to be decided as per discretion of the Bench.

(B.2.1) We have heard the ld. Sr.D.R. for the Revenue. We have perused the materials on record. We find that the aforesaid addition of Rs.7,88,490/- was made by the AO without specifying which entries of the aforesaid expenses were not verifiable. The AO has made the addition in a summary and non speaking manner without bringing any specific material on record to justify the aforesaid *ad hoc* and estimated disallowances amounting to Rs.7,88,490/-. Further, we find that the assessee contended before the ld. CIT(A) during the appellate proceedings before him that the above expenses related to assessee's business expenditure only; and that the assessee further substantiated the genuineness of the

expenses through ledger accounts of all the expenses and also produced the bills and vouchers of those expenses. There is no material on records to contradict this contention of the assessee. Further, neither the AO nor the ld. CIT(A) have specified any specific material adverse to the assessee to justify the aforesaid addition of Rs.7,88,490/- made by the Assessing Officer out of which an addition of Rs.6,30,791/- was confirmed by the ld. CIT(A). The Assessing Officer and the Ld. CIT(A) have not brought any material on record to show either that the expenditure was not genuine or that the expenditure was not a business expenditure. In the facts and circumstances of the present case before us, we are of the view that the AO and the ld. CIT(A) have passed orders without properly justifying the addition; and without any materials to support the additions made/sustained by them. In view of the foregoing, we set aside the impugned order dated 30.08.2019 of the ld. CIT(A) and we direct the AO to delete the aforesaid addition of Rs.6,30,791/- which was sustained by the Ld. CIT(A). All the grounds of appeal are treated as disposed of in accordance with the aforesaid directions.

(C) In the result, the present appeal filed by the assessee is allowed.

This order was already pronounced orally on 4<sup>th</sup> July, 2022 in Open Court, in the presence of ld. Sr.D.R., after conclusion of the hearing. Now this order in writing is signed today on 06.07.2022

SD/-

Sd/-

**(CHALLA NAGENDRA PRASAD)**  
**JUDICIAL MEMBER**

**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 06.07.2022  
*Prabhat*