

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 441/Asr/2018
Assessment Year: 2013-14**

M/s Hotel Grand Mumtaz, M.A. Road, Srinagar, Kashmir. [PAN:AAEFH1182J] (Appellant)	Vs.	ACIT, Circle-3 Srinagar. (Respondent)
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Appellant by	Sh. None. (Written Submission)
Respondent by	Sh.S.M. Surendranath, Sr. DR.

Date of Hearing	22.08.2022
Date of Pronouncement	25 .08.2022

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal was filed by the assessee against the order of the Id. Commissioner of Income Tax(Appeals)-2, Jalandhar (Camp Office at Srinagar), [in brevity the CIT(A)] bearing appeal No. 482/2015-16/CIT(A)/Jammu, date of order 28.02.2018, the order passed u/s 250(6) of the IT Act 1961, [in brevity the Act] for A.Y.2013-14. The impugned order was originated from the order of the Id.

Assistant Commissioner of Income Tax Circle-3, Srinagar, order passed u/s 143(3) of the Act date of order 26.02.2016.

2. Brief facts of the case are that during the assessment proceeding the Id. AO disallowed the various expenses @ 10% on amount of Rs.57,26,086/- which is worked out amount to Rs.572,608/-. During the assessment the bill and vouchers related to these expenses were not available and somewhere not properly vouched. Aggrieved assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) upheld the order of the AO. Being aggrieved assessee filed an appeal before us.

3. The no one was appeared on behalf of assessee. Theld. Counsel for the assessee had filed a written submission on dated 15.07.2022 which was taken in consideration for adjudication the same. Extract of the observation of the Id. AO is reproduced as below:

“2.2 The assessee is deriving income from running hotel and Restaurant business at Moulana Azad Road, Srinagar Kashmir. During the course of the assessment proceedings and on the test check of the books of accounts and other information filed by the counsel of the assessee, it was noticed that the assessee has debited the following expenses in the P&L account :-

S.No.	Name of the head under which expenses have been debited	Amount
1.	Business promotion	6,91,823/-
2.	House keeping & Laundry Exp	19,73,361/-
3.	Misc Exp	2,14,935/-
4.	Printing & Stationery	5,56,447/-
5.	R/R Furniture & Fixture	2,42,766/-

6.	<i>Service and maintenance</i>	3,65,256/-
7.	<i>Staff welfare</i>	1,25,284/-
8.	<i>TA conveyance</i>	10,90,933/-
9.	<i>Telephone/ mobile expenses</i>	2,03,936/-
10.	<i>Vehicle Maintenance</i>	2,61,347/-
	<i>Total</i>	57,26,086/-

The A/R of the assessee was asked to furnish the details of various expenses and to produce supporting bills and vouchers in respect of same. On examination of the books of accounts and bills & vouchers, it was noticed that some bills in respect of above mentioned expenses with supporting documents were not available and some were not properly vouched. The AR of the assessee was asked to justify the aforesaid claims. When the same facts were confronted to the AR of the assessee, he could not submit any reasonable explanation for such unvouched expenses. No explanation to justify these expenses has been filed. Therefore, to cover the leakage of Revenue, I herewith disallow 10% of above expenses claimed under various heads. Accordingly, an addition of Rs. 5,72,608/-is made and added back to the returned income of the assessee.

4. The ld. Sr. DR relied on the order of the revenue authorities. No other contrary findings were placed before the bench.

5. We consider the submission of the ld. Counsel and both the orders of the revenue authorities. The expenses were disallowed by the AO without any basic findings of the expenses. Mere mentioning that the supporting bills and vouchers which were missing &are not properly vouched would not serve the purpose for addition. The ld. CIT(A) without verifying the same pass the order only on basis of

observation of the Id. AO. The Id. CIT(A) is equally fallacious since the expenses are extremely useful for furtherance and growth of any business, leave aside the assessee's business. No worthwhile argument has been advanced by the Id. CIT(A) as to why he has treated this expense as bogus. It has been held in a plethora of judgments that any expense that goes towards better understanding and/or management of one's business is an expense allowable u/s 37 of the Act. It has also been held that it is not for the AO to step into the shoes of a businessman and dictate to him how he should run his business. In support, reliance was placed on the following decisions namely, **CIT v. Kohinoor Paper Products [1997] 92 Taxman 316/226 ITR 220 (MP)**, **Mallige Medical Centre (P.) Ltd. v. Jt. CIT [2015] 61 taxmann.com 298/234 Taxman 253/375 ITR 522 (Kar.)**, **Kostub Investment Ltd. v. CIT [2014] 45 taxmann.com 123/223 Taxman 463/365 ITR 436 (Delhi)**, **CIT v. Naidunia News & Networking (P.) Ltd. [2012] 23 taxmann.com 422/210 Taxman 73 (MP)**, **Hindustan Hosiery Industries v. First ITO [1983] 5 ITD 349 (Bom - Trib.)** and **KashiramRadhekrishan v. CIT [1985] 155 ITR 609/[1986] 27 Taxman 397 (Raj)**. The specific lacuna was not pointed out by both the revenue authorities related disallowance of expenses. The assessee had undergone tax audit and maintaining the books of account u/s 44AB of the Act. The contradiction with audited books of account and the findings of the lower authorities is not established during the assessment proceeding. The Id. Sr.

DR did not able to find out any contrary view against the submission of the ld. Counsel of the assessee. Accordingly, the addition of amount of Rs.572608/- is liable to be quashed.

6. In the result, appeal of the assessee ITA441/Asr/2018 is allowed.

Order pronounced in the open court on 25.08.2022

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order