

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH: KOLKATA**  
श्री संजय गर्ग न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष  
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

**I.T.A. No. 338/Kol/2022**  
आयकर अपील संख्या-338/कोल/2022  
**Assessment Year : 2017-18**  
निर्धारण वर्ष: 2017-18

I-Krab E-Sol Pvt. Ltd. (PAN: AADCI 5402 J)	Vs.	ITO, Ward-10(3), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	28.07.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	01.09.2022
For the Appellant/ निर्धारिती की ओर से	Shri A. Chakraborty, Advocate
For the Respondent/ राजस्व की ओर से	Shri Manas Mondal, Addl. CIT

**ORDER / आदेश**

**Per Shri Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre- NFAC-Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 08.04.2022 for the AY 2017-18.

2. The only effective issue raised in various grounds of appeal is against the confirmation of addition of Rs. 9,34,822/- by Ld. CIT(A) as made by the AO by

disallowing Rs. 4,58,858/- in respect of entertainment expenses and Rs. 5,75,964/- qua discount allowed by the assessee.

3. Facts in brief are that the AO during the course of assessment proceedings observed that the assessee has charged Rs. 3,58,858/- under the head entertainment expenses. It was further noted by the AO that Rs. 1,33,760/- was incurred through credit card of the director of the assessee whereas Rs. 1,89,448/- was by way of reimbursement of expenses incurred. The AO disallowed the entire amount of expenses incurred on the ground that the assessee has failed to produce bills and vouchers during the assessment proceedings. The AO accordingly added the same to the income of the assessee. Similarly in respect of discount allowed by the assessee of Rs. 14,39,909/- and claimed under the head other expenses, the AO noted that very small amounts of discounts were allowed account which could not be properly verified and vouched except notings on the vouchers and no such expenditure was incurred in the earlier year and thus disallowed 40% of the said expenditure thereby disallowing and adding Rs. 5,75,964/- to the income of the assessee.

4. In the appellate proceedings, the Ld. CIT(A) affirmed the order of AO by holding that in order to claim expenditure u/s 37 of the Act, the assessee has to prove the genuineness of the expenditure that the said expenditure were in connection with business of the assessee. The Ld. CIT(A) also noted that apart from the above it has to be proved that the expenditure are neither personal nor capital in nature and also not prohibited under any law. According to the Ld. CIT(A) these things were not proved by the assessee and thus the Ld. CIT(A) upheld the order of AO on this issue. Similarly as regards disallowance of 40% of discount allowed, the Ld. CIT(A) gave same finding that very meager amount allowed as discount which could not be verified and thus justified the disallowance of discount of 40%.

5. After hearing the rival parties and perusing the material on record, we note that the assessee is engaged in the business of digital marketing and sale of mobile recharge etc. We note from the facts on records before us that the assessee has

incurred Rs. 3,58,858/- during the year under the head entertainment expenses. We have also verified these expenses with bills and vouchers which are very small amounts incurred either in connection with travelling expenses or other small retailers get together expenses which was stated to be incurred in the regular course of business of assessee as the assessee is in the business of sale of mobile recharge and also organized the small get together and retail traders. In view of this fact, we are not in concurrence with the findings of the Id. CIT(A) that the entire expenses are personal in nature and not incurred in relation with the business. Keeping in the nature of business, bills and vouchers as filed in the paper book we are of the view that at the most some proportion of these expenses can be attributed to the personal use of the director. Keeping in view of this fact we deem it fit to make an ad hoc disallowance of 5% of these expenses towards personal expenditure. Consequently we modify the order of Ld. CIT(A) and direct the AO to delete the addition to the extent of Rs. 3,40,914/- and thus addition to the tune of Rs. 17,943/- is sustained. Further in respect of discount, we note that the assessee is in the business of selling mobile recharge in which the discounts are allowed to the customer in the ordinary course of business which has been accounted for by the assessee in the books of account which were produced before us. We note that the number of entries of discount allowed ran into 7,327/-. We note that discounts were allowed during the mobile recharge for which there was no separate voucher available in the business of assessee. Moreover, the authorities below have failed to justify and reason disallowance of 40% of the total expenditure and the conclusions of both the authorities are based upon the surmises and conjectures which is not permissible under the Act. Accordingly we set aside the order of Ld. CIT(A) on this issue and direct the AO to delete the addition.

6. In the result, the appeal of the assessee is partly allowed.

Order is pronounced in the open court on 1<sup>st</sup> September, 2022

Sd/-  
(Sanjay Garg /संजय गर्ग)  
Judicial Member/न्यायिक सदस्य

Sd/-  
(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 1<sup>st</sup> September, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- I-Krab E-Sol Pvt. Ltd., 1<sup>st</sup> Floor, 4/3, Poddar Nagar, Prince Anwar Shah Road, Kolkata -700068
2. Respondent – ITO, Ward-10(3), Kolkata
3. Ld. CIT(A)- NFAC-Delhi
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata