

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.10/Chny/2020
(निर्धारण वर्ष / Assessment Year: 2016-17)

Jaichand Bakliwal 11, Vinayaga Maistry Street, Sowcarpet, Chennai – 600 001.	बनाम/ Vs.	ITO Non-Corporate Ward-4(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAJPB-9425-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	None
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri ARV Sreenivasan (Addl. CIT) –Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	05-09-2022
घोषणा की तारीख / Date of Pronouncement	:	05-09-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2016-17 arises out of the order of learned Commissioner of Income Tax (Appeals)-5, Chennai [CIT(A)] dated 07-11-2019 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 13-12-2018. In this appeal, the assessee is aggrieved by confirmation of following additions:

1.	Advertisement exp. in Madras Kirana Association souvenir	Rs. 50,000/-
2.	Expenses incurred in running car for business purposes	Rs. 2,14,706/-
3.	Municipal Tax paid on own building premises	Rs. 4,006/-
4.	Transfer of funds from one firm to another firm	Rs. 50,000/-
5.	Festival expenses	Rs. 2,76,210/-
6.	Salary paid	Rs. 2,65,100/-

2. At the time of hearing, none appeared for the assessee. The Ld. Sr. DR pleaded for dismissal of the appeal. After considering the material on record, the appeal is disposed-off as under. The assessee being resident individual has derived income from commission agency business from proprietorship concerns namely M/s. J.B. Traders and M/s. J.S. Corporation. The Ld. AR made the above stated additions while farming the assessment which has been confirmed by Ld. CIT(A) for want of evidences. Aggrieved, the assessee is in further appeal before us.

3.1 The expense of Rs.0.50 Lacs, as tabulated at serial no. 1, has been incurred by the assessee as a member of Madras Kirana Association for advertisement. The Ld. AO simply disallowed the same on the ground that there was no nexus between the expenditure and earning of income. The genuineness of the expenditure is not in doubt. We find that the assessee is a commission agent and would require advertisement which may or may not bring revenue for the assessee. Therefore, this expenditure was business expenditure allowable u/s 37(1). We order so.

3.2 The assessee has claimed car maintenance expenses of Rs.2,14,706/- which has been disallowed by Ld. AO on the ground that the assessee does not own a car in the Balance Sheet. During appellate proceedings, the assessee submitted that the car was in the name of son but it was used for travelling to various places to source business and for collection. However, Ld. CIT(A) rejected the same. We find that it would be reasonable to estimate the disallowance of 20% against this expenditure.

3.3 The corporation tax of Rs.4,006/- is stated to be have been paid for office building. Considering the same, we direct Ld. AO to allow the deduction of the same.

3.4 The sum of Rs.0.50 Lacs is transfer of funds between two proprietary concerns of the assessee. The Ld. AO has disallowed the same on the ground that one of the entities was not shown as creditor in the books of the other entities. We find that it is mere transfer of capital balances between two proprietary concerns and therefore, this addition is not sustainable in law.

3.5 The festival expenses are stated to be incurred for giving gifts to customers and staff on the occasion of festivals. The assessee also produced ledger extract before Ld. CIT(A) detailing the expenses. We find that these are customary expenses and it would be fair to restrict the disallowance to the extent of 20%.

3.6 The salary expenses have been disallowed by Ld. AO merely on the ground that there were common employees in two proprietary concerns. However, the same could not be ground of disallowance since both the entities are proprietary concern of the assessee. Therefore, this addition is not sustainable. We order so.

4. The appeal stands partly allowed.

Order pronounced on 05th September, 2022.

Sd/-
(MAHAVIR SINGH)

उपाध्यक्ष / VICE PRESIDENT

चेन्नई / Chennai; दिनांक / Dated : 05-09-2022
EDN/-

Sd/-
(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF