

**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. 295/Asr/2018
Assessment Year: 2008-09

M/s Reshu Boktoo & Son,
Sulaiman Shopping Complex
Boulevard, Dalgate, Srinagar

[PAN: AACFR 0471Q]

(Appellant)

Vs. Income Tax Officer, Ward 2,
Jammu & Kashmir

(Respondent)

Appellant by : None

Respondent by: Sh. S. M. Surendranath Sr. DR

Date of Hearing: 01.09.2022

Date of Pronouncement: 12.09.2022

ORDER

Per Dr. M. L. Meena, A.M.:

This appeal is directed against the order of the Ld. Commissioner of Income Tax (Appeals)-1, Amritsar (Camp at Jammu) dated 28.02.2018, in respect of the Assessment Year 2008-09, challenging the order confirming adhoc disallowances on account of principles of natural justice.

2. The assessee has raised the following grounds of appeal:

- “1. *That on the facts and in the circumstances of the case the Id. CIT(Appeals) has not been justified in retaining and upholding the addition made by the Ld. A.O. at Rs.1,50,000/- on lumpsum, surmises and conjectures out of the transportation and rent paid/incurred by the assessee appellant being travel and tour operators debited to profit & loss account/ Balance-Sheet, duly Audited by the Auditors.*
2. *That the appellant reserves the right to alter, amend, change, add, withdraw the grounds of appeal before it is heard and disposed off by the Hon'ble ITAT.*

3. There is a sole and common issue, regarding the upholding of lumpsum/adhoc disallowances out of transportation expenses claimed by the appellants.

4. None appeared for the assesses, however, the Ld. AR for the appellants contended in grounds of appeal that the worthy CIT(A) has erred in upholding the action of Ld. ITO, without appreciating the fact that Ld. ITO has not specifically pointed to any particular voucher or documentary evidence and that the additions were made by Ld. ITO were made in a routine & perfunctory manner without application of mind & deserved to be deleted as being made on the basis of presumption, surmises and conjectures without quoting the citation of the any decision of ITAT. The Id. CIT(A) has made a running remarks that bill & voucher

for transport expenses claim were not produced while confirming the lumpsum addition of Rs.1,50,000/- made by the AO which do not contain any personal element and cannot be subject to any disallowance on lumpsum adhoc basis.

5. Per Contra, the Ld. Addl. CIT(DR) stands by the CIT(A)'s order.

6. We have heard the Ld. DR, perused the appeal memo filed by the assessee and the orders of the authorities below.

7. Admittedly, the AO has made lumpsum disallowances of Rs.1,50,000/- out of transportation expenses claimed by the appellants, by observing that the expenses claimed were not supported with the bills/vouchers, and some of them were supported by self made bills/vouchers. The Id. CIT(A) has observed that the appellant has not been able to produce the bill & voucher to contradict the findings of the AO. However, the Id. CIT(A) has not mentioned the specific amount of expenditure for which the assessee has failed to produce bills/vouchers while upholding the finding of the AO. The disallowances out of transportation expense by the AO without any specific finding with support of corroborative evidence to prove the contrary and merely mentioning that supporting bills/vouchers were missing or not produced would not be

sufficient for the purpose of such addition to reject the claim of the appellant's business expenses. The Id. CIT(A) without verifying the facts of the case, and considering the written submission of the assessee confirmed the addition on the basis of the observation of the AO. Such observation of the Id. CIT(A) is fallacious, since, expenses were claimed by the appellant assessee for the furtherance and running of its regular business. The Id. CIT(A) has not discussed any worthwhile argument as to why, he has treated the expenses claimed by the assessee as bogus. It has been held in plethora of the judgments that any expenses that goes towards proper understanding/or management of owns business is an expense allow u/s 37 of the Act. The mandate does not permit the AO to step into the shoes of the business man and dictate him, how he has to manage the business.

8. From the above, it is evident that the authorities below did not point out any specific lacunae as regards to disallowance of transportation expenses. In our view, where the Assessing Officer has failed to show that the said expenditure was not for the business purposes, then such disallowance made on ad-hoc/lumpsum basis without there being any material would not be justified.

9. Accordingly, we hold that decision, the Id. CIT(A) in confirming lumpsum addition is unwarranted and against the spirit of law. As such, the addition of Rs.1,50,000/- is deleted.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 12.09.2022.

**Sd/-
(Anikesh Banerjee)
Judicial Member**

**Sd/-
(Dr. M. L. Meena)
Accountant Member**

GP/Sr.PS

Copy of the order forwarded to:

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

True Copy
By Order