

आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE MS.SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRIB.M. BIYANI, ACCOUNTANT MEMBER

(Conducted through Virtual Court)

ITA No.629/Ind/2017
Assessment Year: 2012-13

Tirathdas Shaukatrai Construction Private Limited, Indore (Appellant / Assessee)	बनाम/ Vs.	ITO, 5(5) Indore (Respondent / Revenue)
PAN: AACT 7303 G		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	20.10.2022	
Date of Pronouncement	07.12.2022	

आदेश/O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 01.06.2017 passed by learned Commissioner of Income-Tax (Appeals)-II, Indore [**Ld. CIT(A)**], which in turn arises out of assessment-order dated 16.03.2015 passed by learned ITO, Ward-5(5), Indore [**Ld. AO**] u/s 143(3) of Income-tax Act, 1961 [**the Act**] for Assessment-Year [**AY**] 2012-13, the assessee has filed this appeal on following grounds:

- “(1) That the Ld. Commissioner of Appeals-2 Indore erred in disallowing wages Rs. 2,00,000/-.

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(2) *That the Ld. AO has not pointed out specific bills / voucher of wages and lump sum addition which is not correct.”*

2. None appeared on behalf of assessee. However, the Ld. DR representing the Revenue was ready to argue the case. Considering the small nature of issue involved, the matter was proceeded with for hearing.

3. Originally this appeal was dismissed by order dated 23.07.2019 of ITAT, Indore Bench for non-prosecution by assessee. Subsequently, the assessee filed Misc. Application No. 103/Indore/2019 which came to be decided through order dated 07.02.2020 as a result of which the dismissal was re-called and the appeal was restored for hearing on merits. Thus, this appeal has again come up before us; accordingly we proceed to decide the same on merits.

4. Briefly stated the preliminary facts of the case are such that the assessee-company filed return of income declaring a total income of Rs. 7,17,449/- which was subjected to scrutiny and statutory notices u/s 143(2) / 142(1) were issued. The assessee complied with those notices. Finally, the Ld. AO completed assessment through order u/s 143(3) after making certain additions, at a total income of Rs. 12,65,083/-. The assessee filed first-appeal to Ld. CIT(A) and got part relief. Still remaining aggrieved by the order of Ld. CIT(A), the assessee has come in this appeal before us.

5. Presently the only issue for which the assessee feels aggrieved, is the addition of Rs. 2,00,000/- made by Ld. AO on account of disallowance out of wages and confirmed by Ld. CIT(A).

6. Ld. AO has made the aforesaid addition of Rs. 2,00,000/- by observing and holding thus on Page No. 2 of the assessment-order:

“It was further noticed during the year under consideration the assessee in the profit and loss account claimed wages amounting to Rs. 60,66,212/-. On verification of labour and wages vouchers it was noticed that certain vouchers are not available with the assessee as per

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the register maintained for wages payment. The counsel of assessee was asked to provide the reasons for non-availability of vouchers. Since no satisfactory reply was given by the counsel of assessee. In view of the non-availability of vouchers and on the facts and circumstances of the case out of the total expenses, an amount of Rs. 2,00,000/- is disallowed and added to the total income of the assessee.”

7. During first-appeal, Ld.CIT(A) has confirmed the disallowance by observing and holding thus:

“4.1 The AO has cited the non-availability of some vouchers for making this addition. As the appellant has not been able to produce all vouchers for the expenditure so incurred by it on account of wages, the AO is found justified in making this addition. Thus, this ground of appeal is hereby dismissed.”

8. Ld. DR supported the orders of lower authorities and argued that the Ld. AO has rightly made disallowance for the reason that certain vouchers of wages expenditure were not produced by the assessee. According to Ld. DR, the addition made by Ld. AO is perfect in the circumstance and the Ld. CIT(A) has rightly confirmed the action of Ld. AO. Ld. DR prayed that the action of lower authorities must be upheld.

9. We have considered the submission of Ld. DR and perused the material held on record. We observe that the Ld. AO has, though made a general remark that *“certain vouchers are not available with the assessee as per the register maintained for wages payment”*, yet not mentioned even a single voucher which was not available. We further observe that the Ld. AO has made an adhoc disallowance of Rs. 2,00,000/- despite himself making a comment that *“certain vouchers”* were not available. In our considered view, if *“certain vouchers”* were not available, not only the Ld. AO must have mentioned the details of those *“certain vouchers”*, but also he ought to have made a specific disallowance *qua* those *“certain vouchers”*. Thus, the order of Ld. AO is very cryptic. At this stage, we are consciously aware of the consistent view being taken by Hon^{ble} Courts / Benches of ITAT that there is no authority in income-tax law to make or encourage the disallowance on adhoc basis. One such decision given by Co-ordinate Bench of ITAT, Indore

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holding the same ratio is **DCIT-1(1), Indore Vs. Brilliant Estate Pvt. Ltd., ITA No. 349/Ind/2017 dated 13.12.2018**, where it has been held thus:

“24. We find that the assessee is a limited company and has maintained regular books of account and financial statement are duly audited and books results have not been rejected by the Brilliant Estate Pvt. Ltd. No major discrepancies have been noticed. Disallowance of Rs. 2,00,000/- has been merely made on the observation that some of the expenditure are incurred in cash and some vouchers are self-made and surprisingly there is no specific observation by the Ld. AO which could prove that the assessee has claimed the expenses with a motive to evade the tax nor any observation has been made by the Ld. AO for challenging the genuineness of the particular expenditure. In these given facts and circumstances merely making a ad-hoc disallowance of Rs. 2,00,000/- and completely disregarding the audited financial statements was certainly not justified on the part of the Ld. AO. Therefore we find no infirmity in the finding of Ld. CIT(A) deleting the disallowance of Rs. 2,00,000/- placing reliance of various judgments. In the result ground no.2 raised by the revenue stands dismissed.”

10. Therefore, we observe that the approach of adhoc disallowance without citing a single instance of specific lapse by assessee is not in accordance with law. In fact, the Ld. CIT(A) has himself deleted another addition of adhoc disallowance of Rs. 3,00,000/- in Para No. 3.1 of the very same order by saying *“The AO has not given any specific reason for the making the addition and has made the addition not only on estimated basis but in a purely adhoc manner. I have never been in favour of making adhoc addition.”* But, however, when it came to the impugned addition of Rs. 2,00,000/-, the Ld. CIT(A) has confirmed the adhoc disallowance made by Ld. AO. Thus, the approach of Ld. CIT(A) himself is contradictory. Be that as it may, it is an accepted law that adhoc addition cannot be made by assessing authority and even the Ld. CIT(A), which is an income-tax

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authority, has himself accepted this. Being so, we are not in a position to countenance the adhoc addition made / sustained by revenue-authorities. Resultantly, we are inclined to delete the same. We, accordingly, direct the Ld. AO to delete the addition.

11. In the result, this appeal of assessee is allowed.

Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 07/12/2022.

Sd/-

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक/Dated : 07.12.2022

Patel/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*

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1.	Date of taking dictation	30.11.22
2.	Date of typing & draft order placed before the Dictating Member	30.11.22
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the approved draft is placed before other Member	
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the file goes to the Bench Clerk	
7.	Date on which the file goes to the Head Clerk	
8.	Date on which the file goes to the Assistant Registrar for signature on the order	
9.	Date of dispatch of the Order	