

**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. Nos. 6 & 7/Asr/2018

Assessment Years: 2012-13 & 2014-15

M/s Cottage Industries
Art Gallery, Harwan,
Srinagar

[PAN: AAFC 1783A]
(Appellant)

Vs. Income Tax Officer,
Ward 3(1), Srinagar

(Respondent)

Appellant by : None

Respondent by : Smt. Ratinder Kaur, Sr. DR

Date of Hearing: 07.12.2022

Date of Pronouncement: 20.12.2022

ORDER

Per Dr. M. L. Meena, AM:

These appeals have been filed by the assessee against the order dated 27.09.2017 and 20.09.2017 passed by the Id. Commissioner of Income Tax (Appeals)-1, Amritsar in respect of Assessment Years 2012-13 & 2014-15 respectively.

2. ITA No. 6/Asr/2018 (Assessment Year 2012-13):

- “1. The Id. A.O. has erred in law and facts by making addition of Rs.5,00,000/- on account of “Commission”. The Addition is bad in law and therefore liability needs to be deleted.
2. The Id. A.O. has erred in law and facts by making an adhoc addition of Rs.1,76,839/- on account of sales promotion, guide fees and parchi. Therefore, addition is bad in law and liability needs to be deleted.
3. The Id. A.O. has erred in law and facts by making adhoc addition of Rs.75,336/- on account of different expenses claimed. Therefore, addition is bad in law and liability to be deleted.
4. The appellant reserves all right to amend, alter, add and modify the grounds of appeal.”

3. ITA No. 7/Asr/2018 (Assessment Year 2014-15)

- “1. The Id. A.O. has erred in law and facts by making an adhoc addition of Rs.1,78,535/-. The Addition is bad in law and needs to be deleted.
2. The Id. A.O. has erred in law and facts by making an addition of Rs.18,000/-. The Addition is bad in law and needs to be deleted.
3. The Id. A.O. has erred in law and facts by making an addition of Rs.1,29,385/-. The Addition is bad in law and needs to be deleted.
4. The Id. A.O. has erred in law and facts by making an addition of Rs.1,72,544/-. The Addition is bad in law and needs to be deleted.
5. The appellant reserves the right to alter, amend, alter, add delete any grounds of appeal.”

4. An adjournment application filed by the counsel for the assessee has been rejected in view of the petty adhoc additions challenged in the two years except 5.0 lac commission payment, it is decided to hear the Ld. DR and disposed the appeal accordingly.

5. In respect of Assessment Year 2012-13, during the scrutiny proceedings, the AO made the addition of Rs. 500,000/- out of commission expenditure of Rs 37,44,952/- claimed under the head commission. The AO observed from the copy of commission account that the assessee had made commission payments of Rs.100,000/- each in cash on different dates mentioned in the assessment order totaling to Rs.500,000/- and the said payments were made without deduction of TDS u/s 194H of the Act. When confronted by the AO the assessee stated that he had not made any payment of commission in excess of Rs. 10,000/- to each person, but a single entry had been recorded for whole payment on the said date against payments made to various persons.

5.1 The Ld. CIT(A) while confirming the addition, has observed that in the appeal proceedings, the ground of appeal was not pressed and that the said addition of Rs. 500,000/- was confirmed. In our view, the CIT(A) ought to have brought on record corroborative evidence in rebuttal to documentary evidence and written submission filed on record and even otherwise, the appellate authorities are expected to bring on record material evidence to disagree with the objection of the appellant and ought to have issued a notice to take rebuttal of the appellant assessee on the adverse decision of the Id. CIT(A) before releasing the order. In view of

the principles of natural justice, the assessee may be granted sufficient opportunities of being heard by the appellate authorities. Under the facts and circumstances, we consider it deem fit to restore the matter to the file of the CIT(A) to adjudicate the issue claim of commission afresh after granting the assessee sufficient opportunity of being heard.

6. The other grounds of the ITA No. 6/Asr/2018 & grounds of ITA No. 7/Asr/2018 (Assessment Year 2012-13 & 2014-15) pertains to confirmation of adhoc addition made out of expenses claimed under different heads in both the assessment years under appeal.

6.1 The grounds of appeal are being related to confirmation of disallowance of expenses by holding same as ad hoc/estimated nature for want of appropriate bills/vouchers/record. We find that Assessing Officer has made addition for the reason of self generated vouchers without indicating specific reason for the disallowances except that expenses are not completely verifiable as the assessee did not produce material on the record, however, neither the AO nor the CIT(A) did mention the fact regarding the material required to be produced by the assessee to justify the expenses. As such, the observations made by the Assessing Officer are not sufficient to make adhoc addition to the income returned by the assessee. The Ld. CIT(A)'s observation are casual and perverse to the

facts on record and contrary to hold that expenses are not verifiable. We are accordingly not inclined to agree with the finding of the Ld. CIT(A) on this issue of disallowances of expenses in respect of both the assessment years under consideration. Hence, these grounds of the appeal are allowed in respect of both the assessment years.

7. In the result, the subject appeals of the assessee are allowed in the terms indicated as above.

Order pronounced in the open court on 20.12.2022

**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