



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND ARUN KHODPIA, ACCOUNTANT MEMBER**

**ITA No.129/CTK/2019**

Assessment Year : 2014-15

M/s. M.G.Mohanty, 5-A, Forest Park, Bhubaneswar.	Vs.	DCIT, Circle 2(1), Bhubaneswar
PAN/GIR No.AAFFM 2127 H		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri B.K.Mohapatra/A.K.Sambat, CAS  
Revenue by : Shri M.K.Gautam, CIT DR

**Date of Hearing : 30/1/2023**

**Date of Pronouncement : 30/1/2023**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id CIT(A)-1, Bhubaneswar dated 27.2.2019 in Appeal No.0380/16-17 for the assessment year 2014-15.

2. S/Shri B.K.Mohapatra/A.K.Sabat, Id ARs appeared for the assessee and Shri M.K.Gautam, Id CIT DR appeared for the revenue.

3. It was the submission that three issues were involved in assessee's appeal, first being the disallowance of Peripheral Development Expenses to an extent of Rs.36,79,688/-, second being the disallowance of business development expenses of Rs.2,47,742/- and third being the disallowance

under the head "charity and donation" to an extent of Rs.3,83,581/- as made by the AO and confirmed by the Id CIT(A).

4. It was the submission by Id AR that in respect of issue of Peripheral Development Expenses of Rs.36,79,688/-, the said amount involved two portions being the expenses to an extent of Rs.21,24,623/- incurred by the assessee on the direction of the Bhubaneswar Municipal Corporation (BMC) for the purpose of Peripheral Development Expenses and beautification of Bhubaneswar area in and around the Corporate Office of the assessee company. It was the submission that the second portion of Rs.15,55,065/- were the peripheral development expenses incurred by the assessee at the mining area of Keonjhar and Sundargarh. It was the submission that in respect of expenses incurred by the assessee at Bhubaneswar though said expenses were not within 50 kms range of mining operation of the assessee, same was still to be allowed u/s.37(1) insofar as these expenses were incurred by the assessee on the direction of the BMC. It was the submission that the expenses in relation to Peripheral Development Expenses done by the assessee in and around the mining area of the assessee company were in the nature of substantially salary of the teachers which fell within the criteria of education provided under the notification by the Odisha Government. Some portions also related to the plantation expenses which were in the nature of beautification and replanting the mining area. Some expenses were in the nature of payments to the

association in which the local employees were associated. It was the submission that both the expenses were liable to be allowed even under the provisions of section 37(1) of the Act itself. It was fairly agreed by the Id AR that the Companies Act Amendment of 2013 in the CSR Rules w.e.f. 1.4.2014 subsequent to which it was categorically held that the CSR expenses were not deductible u/s.37(1) of the Act. It was the submission that said amendment was prospective in nature and the assessment year involved in the impugned appeal is assessment year 2014-15. It was the submission that such expenses were allowable.

5. In reply, Id CIT DR submitted that the expenses have not been incurred through the District Committee as required under the Notification issued by the State Government. It was the submission that the amount of Rs.21,24,623/- in any case cannot be allowed as the expense has not been incurred within 50 kms range of the mining area of the assessee. It was the submission that the order of the Assessing Officer as well as the Id CIT(A) is liable to be upheld.

6. We have considered the rival submissions. A perusal of the expenses incurred in respect of peripheral development expenses admittedly is being claimed by the assessee as business expenses. Admittedly, the Assessing Officer has not examined the issue in line with whether the same is allowable as business expenses u/s.37(1) . The Assessing Officer has admittedly looked that issue only whether the said expenses are peripheral

development expenses or not. This being so, in regard to the issue of expenses claimed under peripheral development expenses to an extent of Rs.21,24,623/-, is restored to the file of the Assessing Officer for examination, re-verification and adjudication as to whether the same is allowable under the provisions of section 37(1) of the Act as business expenses as against peripheral development expenses after allowing adequate opportunity of hearing to the assessee.

7. In respect of issue of the expenses incurred by the assessee to an extent of Rs.15,55,065/-, admittedly, said expenditure has been incurred within 50 kms range of the mining area. The said expenses are under the nature of education, health, agriculture, sports and communication. Admittedly, said expenses have not been incurred through District Committee. It is an admitted fact that the expense was incurred only under four heads as the said expenses are incurred within 50 kms range. As the expenses are incurred under the accepted four heads, we are of the view that said expense is allowable under the head "peripheral development expense" and the Assessing Officer is directed to allow same expenses. This issue is partly allowed for statistical purposes.

8. In respect of next issue of business development expenses, it was submitted by Id AR that the Assessing Officer has disallowed 50% of the expenses. It was the submission that the Assessing Officer mentions that the expenses have not been incurred entirely for the business purposes. Ld

AR drew our attention to page 27 of the paper book, which was the details of the expenses incurred being the expenses in relation to printing of diaries and purchase of pens as also expenses incurred by the Managing Partner of the assessee company on various official Guests. It was the submission that the expenses were genuine and fully vouched and the bills had also been produced before the Assessing Officer. It was the submissions that expenses are liable to be allowed.

9. Ld CIT DR submitted that the expenses have been incurred for entertainment of RTO, Cuttack as also ESI officials at restaurant. It was the submission that the disallowance as made by the AO and upheld by the Id CIT(A) is to be upheld.

10. We have considered the rival submissions. A perusal of the ledger extract clearly shows that the claim of Id CIT DR is in respect of less than Rs.1500/- out of total expenses of Rs.4,31,895/-. It is an admitted fact that the assessee might have incurred some expenses at the respective offices in the nature of tea and coffee at the canteens. This has admittedly for the purpose of business only. Other expenses being the expenses in relation to official guests were in respect of diaries and pens are allowable expenses. This being so, the disallowance made by the AO and confirmed by Id CIT(A) stands deleted.

11. Coming to the issue of charity and donation, the assessee was unable to produce any evidence in respect of the same. Consequently, the addition as made by the AO and confirmed by the Id CIT(A) stands upheld.

12. In the result, appeal of the assessee is stand partly allowed for the statistical purposes.

Order dictated and pronounced in the open court on 30/1/2022.

Sd/-  
**(Arun Khodpia)**  
**ACCOUNTANT MEMBER**

sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 30/1/2022  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : M/s. M.G.Mohanty, 5-A,  
Forest Park, Bhubaneswar
2. The Respondent: DCIT, Circle  
2(1),Bhubaneswar
3. The CIT(A)—1, Bhubaneswar
4. DR, ITAT, Cuttack
5. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**