

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “B” DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A No.1638/DEL/2020
Assessment Year 2017-18

M/s. Hindustan Tin Works Ltd., 426, DLF Tower-A, Jasola, New Delhi.	v.	Assistant Commissioner of Income Tax, Circle-11(2), New Delhi.
TAN/PAN: AAACH2597Q (Appellant)		(Respondent)

Appellant by:	Shri Madhur Aggarwal, Adv.		
Respondent by:	Shri Kumar Pranav, Sr.DR		
Date of hearing:	24	11	2022
Date of pronouncement:	17	02	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals), Delhi ('CIT(A)' in short) dated 18.09.2020 arising from the assessment order dated 14.12.2019 passed by the Assessing Officer under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2017-18.

2. The substantive grounds of appeal raised by the assessee reads as under:

“1. That on the facts and in the circumstances of the case and in law the Learned Commissioner of Income Tax (Appeal) erred in dismissing the appeal of appellant company and retaining disallowance of Rs.6,12,409/- in the order passed by Ld. Assistant Commissioner of Income Tax Circle-11(2) New Delhi u/s.143(3) of

the Income Tax Act, 1961.

2. *That Ld. CIT (Appeal)-4 New Delhi grossly erred in law and on facts while sustaining adhoc disallowance of Rs.5,76,846/- at the rate of 25 percent of other miscellaneous expenses of Rs.23,07,386/-.*

3. *That Ld. CIT (Appeal)-4 New Delhi grossly erred in law and on facts while sustaining adhoc disallowance of Rs.35,563/- at the rate of 25 percent of other pooja expenses of Rs.1,42,249/-*

3. Ground No.1 is dismissed as not pressed.

4. Ground No.2 concerns *adhoc* disallowance of Rs.5,76,846/- estimated @ 25% of the miscellaneous expenses claimed at Rs.23,07,386/-. The Assessing Officer in the course of the assessment observed that the assessee has failed to give break up of miscellaneous expenses and also failed to substantiate these expenses. The Assessing Officer accordingly resorted to estimations and disallowed 25% of the expenses.

5. The CIT(A) also confirmed the aforesaid action.

6. To support its claim, the ld. counsel for the assessee submits that the assessee is engaged in the manufacturing of Tin/Metal Containers and sale of tinplates. The assessee as per the return of income declared taxable income in the vicinity of Rs. 9.9 crore. While large income on a very large turnover, the assessee has incurred expenses of miscellaneous nature on its unit and corporate office. The ledger account of the expenses were furnished before the Revenue Authorities but however the vouchers / bills of miscellaneous nature was not furnished on account of such vouchers being extremely voluminous. The accounts are audited and no discrepancy has been found. The ld. counsel further submits that similar expenses have been incurred in the earlier years and no disallowances have been carried out except in Assessment Year

2016-17.

7. We have heard the rival submissions. In the absence of substantiation, the Assessing Officer was justified in making disallowance of estimated expenses as held by the Hon'ble Delhi High Court in the judgment dated 12th July 2021 in the case of *Deputy Commissioner of Income Tax vs. M/s. Bhawani Portfolio Pvt. Ltd. in ITA No.158/2020 and CM Application No.7946/2020*. At the same time, we observe that the disallowance carried out in the immediately preceding Assessment Year 2015-16 is about 3.5% of the expenses. We therefore feel that the estimations made towards disallowances in Assessment Year 2017-18 in question is highly excessive. We therefore modify the estimations at 5% of the expenses incurred instead of 25% to meet the ends of justice. Hence, Ground No.2 is partly allowed.

8. Ground No.3 concerns *adhoc* disallowance of Rs.35,563/- estimated at 25% of Pooja expenses of Rs.1,42,249/-. In the light of the admission made by the assessee before the AO for disallowance @ 20% of such expenses, the disallowance is restricted to Rs.28,450/- @20% having regard to the overall submissions made and the profile of the company. Hence, Ground No.3 is partly allowed.

9. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 17/02/2023.

Sd/-
[CHANDRA MOHAN GARG]
JUDICIAL MEMBER

DATED: /02/2023

Prabhat

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER