

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: SMC: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.3832/Del/2018
Assessment Year: 2013-14

Bharat Power Tech Ltd., C-71/A, First Floor, Kalka Ji, New Delhi 110019 PAN AAACB1314P	vs.	The ACIT Circle 27(1), New Delhi
(Appellant)		(Respondent)

For Assessee :	Shri Ashok Kumar Tiwari, AR
For Revenue :	Shri Om Prakash, Sr DR

Date of Hearing :	19.12.2022
Date of Pronouncement :	02.03.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

This appeal filed by the assessee is directed against the order dated 14.08.2018 of the Ld. CIT(A), New Delhi, relating to Assessment Year 2015-16.

2. The learned assessee representative submitted that the assessee does not want to press grounds no. 1 to 5 hence the same are dismissed has not pressed. Ground no. 8 is general in nature. The remaining effective grounds no. 6 and 7 are being adjudicated.

3. The Ld. AR submitted that the Ld. CIT(A) has erred in law by allowing only 50% of disallowance made by the AO due to reason that the appellant company did not carry out any business during financial year whereas the appellant company did its all efforts to get the business. The Ld. AR vehemently pointed out that the Ld. First Appellate Authority has not given any reason whatsoever while disallowing 50% of expenditure incurred by the appellant company on ad-hoc basis. Further drawing my attention towards para 7 of assessment order the Ld. AR submitted that the assessee is a company and even if there is no business then also assessee company has to incurred some expenses to maintain its legal entity and statutory compliances under companies Act and other related provisions of the legislature. Therefore entire disallowance may kindly be deleted.

4. Replying to the above the Ld. Senior DR again drew my attention towards para 7 of assessment order and submitted that the assessee failed to produce complete books of accounts along with original bills/invoices. Therefore the Ld. CIT(A) by taking a balancing approach rightly restricted the disallowance to the tune

of 50% to cover all possible leakage of revenue. Therefore, the Ld. Senior DR submitted disallowance restricted by the Ld. CIT(A) may kindly be upheld.

5. On careful consideration of rival submissions first of all I note that assessee is a limited company who is require to incurred some expenditure for maintaining its existence as a legal entity. The list of expenditure tabulated by the AO at page 5 of the assessment order clearly shows that the assessee has claimed expenses on electricity, rent, convenience expenses, telephone, payment to auditor, miscellaneous expenses, bank charges and salary & incentives which are necessary for maintenance of legal existence of an entity created as Companies Act to comply with the provisions applicable to it. The learned counsel of the assessee submitted that the assessee filed all relevant books of accounts and bills & vouchers but from the orders of the authorities below. I am in agreement with the findings of the AO that the assessee could not submit entire complete books of accounts with complete bills & vouchers.

6. In such a situation the tax authorities is required to make assessment to cover all possible leakage of revenue which the Ld. CIT(A) has done. However, the 50% disallowance is very an excessive therefore the disallowance is reduced to 20% which is sufficient to cover all possible leakage of revenue in absence of relevant documentary evidence. Accordingly grounds no. 6 & 7 of assessee are partly allowed. The disallowance is restricted to 20% of total disallowance.

7. In the result appeal of the assessee is partly allowed.

Order pronounced in the open court on 02.03.2023.

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated: 02nd March, 2023.

NV/-

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

// By Order //

Asstt. Registrar, ITAT, New Delhi