

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

श्री संजय शर्मा, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष

**Before Dr. Manish Borad, Accountant Member
and Shri Sonjoy Sarma, Judicial Member**

I.T.A. No.726/Kol/2022
Assessment Year: 2015-16

Delhi Howrah Roadlines Pvt. Ltd.....Appellant
1B, 3rd Floor, Black Burn Lane,
Room No.54, Kolkata.
[PAN: AAACD9080A]

vs.

ITO, Ward-1(1), Kolkata.....Respondent

Appearances by:

Shri Sunil Surana, FCA, appeared on behalf of the appellant.

Shri Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 27, 2023

Date of pronouncing the order : March 13, 2023

ORDER

Per Manish Borad, Accountant Member:

This appeal at the instance of the assessee pertaining to the Assessment Year (in short "AY") 2015-16 is directed against the order of the National Faceless Appeal Centre [in short ld. "CIT(A)"] dated 19.10.2022 arising out of the order u/s 143(3) of the Income Tax Act 1961 (hereinafter referred to as the 'Act').

2. Though the assessee has raised as many as ten grounds of appeal, the sole grievance is against the findings of the ld. CIT(A) confirming the disallowance of common expenses on lorry at Rs.15,87,358/-.

3. At the outset, the ld. counsel for the assessee has submitted that the said disallowance is *ad hoc* in nature and no specific defect has been pointed out by both the lower authorities and therefore, the same should be deleted.

4. On the other hand, the ld. Departmental Representative submitted that even after giving many opportunities, the assessee failed to file the details of the common lorry expenses of Rs.31,74,716/- and the ld. Assessing Officer was fair enough to make 50% disallowance of the said expenditure.

5. We have heard the rival contentions and perused the records placed before us. The only issue before us is the disallowance of common expenses of lorry at Rs.15,87,358/-. The assessee is in the transport business and has filed nil income for the return in assessment year 2015-16. The assessee furnished audit report along with receipt of lorry hire charges, own lorry, expenses, salary and bonus, lorry hire charges, list of sundry debtors etc. However, the ld. Assessing Officer on examination on accounts, supporting details and documents furnished in respect of assessee company's accounts and computation, examined the reasons for scrutiny i.e. 'low profit shown by transporters' and was satisfied with the claim of the expenses made by the assessee except for the claim of common expenses on lorry at Rs.31,74,716/- as the assessee failed to file details of such expenses. The ld. Assessing Officer concluded the proceedings by disallowing 50% of such expenses. The ld. CIT(A) has confirmed the view of the Assessing Officer.

5.1 We notice that the assessee is a private limited company and has declared nil income for the year under consideration. No details are available on record to show about the gross turnover of the assessee but the huge expenses to the tune of Rs.10.65 crores have been claimed. Though the Assessing Officer was satisfied with the details filed for all the other expenses except for the common expenses for lorry. Before us also, the assessee could not furnish any details of the

said expenses. No such details were filed before the ld. CIT(A) also. But considering the overall factual matrix and the fact that the assessee has filed sufficient details to explain the major expenses claimed in the audited balance sheet to the satisfaction of the ld. Assessing Officer, we find that the disallowance made by the Assessing Officer is on much higher side and we, therefore, sustain the disallowance to 10% of the total common expenses on lorry of Rs.31,74,716/- and compute the disallowance at Rs.3,17,472/-. Thus the assessee gets relief of Rs.12,69,886/-. The grounds of appeal raised by the assessee are partly allowed.

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

Kolkata, the 13th March, 2023.

Sd/-
[Sonjoy Sarma]
Judicial Member

Sd/-
[Manish Borad]
Accountant Member

Dated: 13.03.2023.

RS

Copy of the order forwarded to:

1. Delhi Howrah Roadlines Pvt. Ltd
2. ITO, Ward-1(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches