

**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI**  
**BEFORE SHRI AMARJIT SINGH, AM AND MS. KAVITHA RAJAGOPAL, JM**

ITA No. 5461/Mum/2018  
(Assessment Year: 2015-16)

Cineyug Entertainment Pvt. Ltd. 301, Rose Apartment, Juhu Church Road, Juhu, Mumbai-400 049	Vs.	DCIT-CC-Range 3(1) Mumbai
PAN/GIR No. AAACC 4376 L		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	Shri Rushabh Mehta
<b>Revenue by</b>	:	Shri Chetan M. Kacha
<b>Date of Hearing</b>	:	16.12.2022
<b>Date of Pronouncement</b>	:	10.03.2023

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) – 51, Mumbai ('Id.CIT(A) for short) passed u/s.143(3) of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2015-16.

2. The assessee has challenged the disallowances of expenses incurred by the assessee made by the Assessing Officer and confirmed by the Id. CIT(A).

3. The brief facts of the case are that the assessee company is sister concern of Cineyug Group, which is engaged in the business of event management of various shows/concerts/awards ceremonies, etc. The assessee filed its return of income for the

impugned year dated 29.09.2015, declaring total income at Rs.Nil and claiming loss to be carry forward of Rs.1,23,48,406/-. The assessee's case was selected for scrutiny and the assessment order dated 28.12.2017 was passed u/s. 143(3) of the Act where the A.O. made various additions/disallowances and determined the total income at Rs.2,80,73,722/-.

4. The assessee was in appeal before the Id. CIT(A), challenging the disallowance of expenses incurred by the assessee where the Id. CIT(A) partly allowed the claim of the assessee.

5. The assessee is in appeal before us, challenging the impugned addition made by the A.O. and confirmed by the Id. CIT(A). The total expenditure by the assessee before the A.O. are tabulated hereunder:

<b>Sr. No.</b>	<b>Head of Ex.</b>	<b>Amount of Exp.</b>	<b>% disallowed (%)</b>	<b>Disallowed (Rs.)</b>
1	Production Expenses	10,46,52,511	15	1,56,97,877
2	Travelling Expenses 1	86,20,4438	25	21,55,110
3	Sales Promotion	65,33,974	25	16,33,494
4	Wages	84,64,027	25	21,16,007
5	Food Expenses	443,28,116	25	10,82,029
6	Visa & Passport Expenses	2,18,812	25	54,703
7	Vehicle Hire	19,90,058	25	4,97,515
8	Rehearsal hail hire charges	14,49,845	25	3,62,461
9	Car expenses	18,67,142	25	4,66,786
10	Donation			74,921
11	Conveyance	13,59,957	25	3,39,989
12	Lodging & Boarding	71,85,659	50	35,92,830
13				2,80,73,722

6. Ground nos. 1.1 & 1.2 pertains to the disallowance of production expenses of Rs.10 lacs out of the total production expenses. It is observed that the assessee has debited various production expenses, aggregating to Rs.37,62,54,787/-.

7. During the assessment proceeding, the A.O. had called for the details of the said expenses along with the copies of bills, vouchers, etc. The A.O. has contended that the assessee has not produced evidence, supporting the claim of the expenditure incurred. The A.O. has also stated that the expenditure incurred during the impugned year for same has increased manifoldedly when compared to the previous year and that the assessee has failed to substantiate that the said expenditure was expended wholly and exclusively for the purpose of business of the assessee. It is also observed that the amount of expenditure for production expenses was claimed to be Rs.10,46,52,511/- where the A.O. disallowed 15% and made an addition of Rs.1,56,97,877/-.

8. In an appeal before the Id. CIT(A), it was held that as the facts of the case in A.Y. 2014-15 are identical to this, in which case an amount of Rs.10 lacs was disallowed out of the production expenses, the Id. CIT(A) restricted the disallowance on production expenses to Rs.10 lacs based on the previous year disallowance. In absence of any additional evidences filed by the assessee to substantiate its claim, we find no infirmity in the order of the Id. CIT(A) in restricting the disallowance to Rs.10 lacs on the production expenses claimed by the assessee. Hence, ground nos. 1.1 & 1.2 raised by the assessee is dismissed.

9. Ground nos. 2.1 & 2.2 pertains to the disallowance of wages paid amounting to Rs.8,46,403/-, food expenses amounting to Rs.4,32,812/- and disallowance of the cash expenses amounting to Rs.1,86,714/-. It is observed that the A.O. has disallowed 25% of the amount claimed by the assessee.

10. In an appeal before the Id. CIT(A), the said disallowance was restricted to 10% of each of the expenses by considering the decision for the preceding year in assessee's case for similar expenditure.

11. Having heard the rival submissions and perused the material on record. It is observed that the assessee has failed to substantiate its claim of expenditure before the lower authorities and has also failed to furnish any documentary evidence supporting its case even before us. In absence of complete documentary evidence to prove that the impugned expenses was incurred wholly and exclusively for the purpose of the assessee's business, we find no infirmity in the relief given by the Id. CIT(A), restricting the impugned disallowance of 10% of the expenditure claimed. Hence, ground nos. 2.1 to 4.2 raised by the assessee is dismissed.

12. Ground no. 6 pertains to the disallowance of the conveyance expenses of Rs.13,59,957/- made by the A.O. The assessee has submitted that the Id. CIT(A) has failed to adjudicate this ground of appeal during the first appellate proceeding. Considering the facts of the case where the A.O. has disallowed 25% of the conveyance expenses claimed by the assessee, amounting to Rs.13,59,957/-, we are of the view that on similar expenses, the Id. CIT(A) has restricted the addition to 10% to the amount claimed by the assessee. In this regard, we deem it fit to restrict the said disallowance to 10% of the conveyance expenses for the reason that the assessee has failed to substantiate the said claim neither before the lower authorities nor before us. Hence, ground no. 6 raised by the assessee is partly allowed.

13. Ground nos. 7.1 & 7.2 pertains to the disallowance of lodging & boarding expenses amounting to Rs.7 lacs. It is observed that the assessee has claimed Rs.71,85,659/- where the A.O. has disallowed 50% on the impugned expenditure claimed on lodging & boarding.

14. The Id. CIT(A) in an appeal filed by the assessee stated that the assessee has incurred the said expenses in respect of musical show titled 'Bollywood' by joint venture with Viacom 18 Media P. Ltd. proposed to be undertaken in 12 cities. It is observed that as the show did not go on well, the assessee had incurred a loss and had claimed the said expenditure. As the assessee has failed to substantiate the fact that the said expenditure was expended wholly and exclusively for the purpose of business, the A.O. has disallowed 50% on adhoc basis. The Id. CIT(A) by relying on the decision of the Hon'ble Apex Court in the case of *Dhakeshawari Cotton Mills Ltd.* 267 ITR 775 (SC) restricted the disallowance to Rs.7 lacs on the ground that the A.O. has failed to bring on record any evidence to make the impugned adhoc disallowance @ 50% which was exorbitant.

15. Having heard the rival submissions and perused the materials on record. We are of the considered opinion that the assessee has not furnished any documentary evidence to prove its claim of expenditure under the head 'lodging and boarding' before the lower authorities. Even in the second appellate proceeding, the assessee has failed to produce any evidences to substantiate its claim. After considering the nature of the business activity carried out on by the assessee, we are convinced with the disallowance made by the Id. CIT(A), restricting to Rs.7 lacs out of the total claim of Rs.71,85,659/- claimed by

the assessee. We find no merit in this ground of appeal raised by the assessee and, therefore, this ground is dismissed.

16. In the result, the appeal filed by the assessee is partly allowed.

*Order pronounced in the open court on 10.03.2023*

Sd/-

(Amarjit Singh)  
Accountant Member

Mumbai; Dated : 10.03.2023  
Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)  
Judicial Member

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai