

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'SMC' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No. 4345/Del/2018  
Assessment Year: 2009-10

Bhagwan Investment & Trading Co. (P) Ltd., (Now Pawansut Holding Ltd.), 415, Usha Kiran Commercial Complex, New Delhi, PIN: 1100 33	<b>Vs.</b>	ITO, Ward-2(4), New Delhi.
<b>PAN :AACCB2095F</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Shri Vivek Agarwal, CA
Respondent by	Shri Om Prakash, Sr. DR

Date of hearing	23.03.2023
Date of pronouncement	31.03.2023

**ORDER**

This is an appeal by the assessee against order dated 28.03.2018 of learned Commissioner of Income-Tax (Appeals)-2, New Delhi pertaining to assessment year 2009-10.

2. The dispute in the present appeal is confined to part disallowance of part expenses amounting to Rs.11,91,819.

3. It will be relevant to observe, the present appeal was earlier dismissed in limine by the Tribunal vide order dated 08.05.2019 on the ground of non-prosecution. However, subsequently, while considering miscellaneous application filed by the assessee, the Tribunal in order dated 23.07.2021 passed in M.A. No. 224/Del/2022 recalled its ex parte order and restored the appeal to its original position. This is how, the present appeal came up for hearing before me.

4. Briefly, the facts are, the assessee is a resident corporate entity. As stated by the Assessing Officer, the assessee, basically, is a entry operator. For the relevant assessment year under dispute, assessee filed its return of income on 18.08.2009 declaring income of Rs.10,209.

5. In course of assessment proceedings, the assessee admitted its business activity as an entry provider and submitted that it earned only commission income for providing entry.

6. In course of assessment proceedings, Assessing Officer, on examining the bank statement, noticed that debit entry in the bank account was to the tune of Rs.1,13,16,750. Estimating commission at

1% of the aforesaid amount, on account of accommodation entry, the Assessing Officer added back an amount of Rs.1,13,167. Further, he noticed that the assessee had claimed various expenses of Rs.14,28,000. Being of the view that salary and other expenses claimed by the assessee are unreasonably high, the Assessing Officer disallowed a part of the expenses claimed by restricting the total expenses to Rs.4,55,323 including salary expenses of Rs.3,76,400 paid to three employees. The disallowance of expenses was confirmed by learned First Appellate Authority.

7. Before me, learned counsel appearing for the assessee submitted that part disallowance of expenses is on purely ad hoc basis . He submitted, the assessee has employed ten persons who are continuing to do various work for the assessee. He submitted, the employees are working with the assessee from earlier years and the assessee has furnished their names, addresses and PAN details. He submitted, even in respect of other expenses, the assessee furnished all the details He submitted, in preceding assessment years, no such disallowance was made even in scrutiny assessments. Thus, he submitted, disallowance made should be deleted.

8. Learned Departmental Representative relied upon the observations of Assessing Officer and learned Commissioner (Appeals).

9. I have considered rival submissions and perused the material available on record.

10. Reading of the assessment order, clearly reveals that being of the view that some expenses claimed by the assessee are high and unreasonable, the Assessing Officer has disallowed part of it on purely ad hoc basis. Out of the total salary expenses of Rs.14,28,000 claimed by the assessee, the Assessing Officer has allowed only an amount of Rs.3,76,400 representing salary of three employees. Similarly, a part of other expenses have been disallowed on purely ad hoc basis. The Assessing Officer has not explained or stated on what basis, he has concluded that only three of the employees are looking after the day to day affairs of the company, whereas, the other employees were not required for the purposes of assessee's business. There is absolutely no reasoning of the Assessing Officer in this regard. Even, the part disallowance of other expenses is without any reasoning. From the material placed before me, it is observed that the assessee had

employed ten employees who are working with the assessee from past years. The individual details of all such employees including names, addresses and PAN were furnished before the Assessing Officer. On perusal of assessment orders passed under Section 143(3)/147 of the Income-Tax Act,1961 for assessment years 2005-06 and 2006-07 placed in the paper book, it is observed that, though, the assessee was carrying on identical business activity, however, no such ad hoc disallowance of expenses were made by the Assessing Officer. The only addition made in these assessment years were on account of commission income. Thus, the ad hoc disallowance made out of expenses, being bereft of any valid reasoning, I am inclined to delete the disallowance. Accordingly, the addition of Rs.11,91,890 is hereby deleted. Consequently, ground nos. 1 and 2 are allowed. Whereas, ground nos.3, 4 and 5 having not been pressed are dismissed.

11. In the result, the appeal is allowed as indicated above.

*Order pronounced in the open court on 31<sup>st</sup> March, 2023.*

**Sd/-**  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 31<sup>st</sup> March, 2023.

**Mohan Lal**

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi