

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. Nos.196 & 197/Chny/2023
निर्धारण वर्ष/Assessment Years: 2018-19 & 2019-20

Rajamani Balachander,
28, Judge Jambulingam Road,
Mylapore, Chennai 600 004,
Tamil Nadu.

Vs. The Deputy Commissioner of
Income Tax,
Central Circle 3(3), Chennai.

[PAN:AWKPB4668D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri R. Venkata Raman, CA
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 05.04.2023
घोषणा की तारीख /Date of Pronouncement : 21.04.2023

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against separate orders of the Id. Commissioner of Income Tax (Appeals) 18, Chennai, both dated 07.12.2022 relevant to the assessment years 2018-19 and 2019-20.

2. Both the appeals filed by the assessee are delayed by ten days in filing the appeals before the Tribunal. The assessee has filed petitions for condonation of delay against which, the Id. DR has not objected. Since

the assessee was prevented by reasonable cause, we hereby condone the delay of ten days in filing the appeals and admit the appeals for adjudication.

3. Brief facts of the case are that the assessee is an individual, engaged in the business of event management for corporate and filed her return of income for the assessment year 2018-19 on 31.10.2018 admitting total income of ₹.19,34,210/-. A survey operation under section 133A of the Income Tax Act, 1961 ["Act" in short] was initiated at the business premises of the assessee. Subsequently, the case was selected for scrutiny and issued statutory notices to the assessee. After following due procedure, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 30.09.2021 by assessing total income of the assessee at ₹.44,57,658/- after making various additions. In the assessment order, the Assessing Officer has noted that on verification of the cash expenses incurred from April to December, 2017 as per impounded vouchers, the assessee had incurred a sum of ₹.12,69,740/- by violating the provisions of section 40A(3) of the Act by making payment exceeding ₹.10,000/- to a single person on a day till December, 2017. In the course of assessment proceedings, the assessee was called upon to furnish the details of such cash payments made in

violation of the provisions of section 40A(3) for the period from January, 2018 to March, 2018 which was reported to be ₹.1,84,196/-. The Assessing Officer, after taking into account the above, made a total disallowance of ₹.14,53,936/- as incurred by violating the provisions of section 40A(3) of the Act. On appeal, the Id. CIT(A) allowed 50% of the expenses incurred upto December, 2017 (₹.6,34,870/-) as an admissible expenditure and sustained the balance disallowance.

4. On being aggrieved on the confirmation of disallowance of ₹.6,34,870/-, the assessee carried the matter in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the assessee, as an event manager incurred various expenses at the site of the event and had to incur cash expenses through the personnel deployed by her to the site due to business exigency, which falls within the ambit of first proviso to section 40A(3) of the Act and prayed for deleting the addition confirmed by the Id. CIT(A).

5. On the other hand, the Id. DR supported the order passed by the Id. CIT(A).

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The cash

expenses incurred from April, 2017 to March, 2018 in violation of provisions of section 40A(3) of the Act by making payment exceeding ₹.10,000/- to a single person on a day of ₹.14,53,936/- was brought to tax. On appeal, while sustaining the disallowance made for the period from January, 2018 to March, 2018 of ₹.1,84,196/-, out of the disallowance of ₹.12,69,740/- of cash expenses incurred from April, to December, 2017, the Id. CIT(A) allowed relief of 50% to the balance disallowance viz., 6,34,870/- as an admissible expenditure and sustained the balance disallowance of ₹.6,34,870/-.

7. Before us, the Id. Counsel for the assessee has argued that the Id. CIT(A) was not justified in sustaining the disallowance of ₹.6,34,870/- and contended that the assessee, being an event manager incurred various expenses at the site of the event and had to incur cash expenses through the personnel deployed by her to the site due to business exigency, which falls within the ambit of first proviso to section 40A(3) of the Act and prayed for deleting the addition confirmed by the Id. CIT(A). Considering the nature of business of the assessee, wherein cash expenses are inevitable, in order to meet the ends of natural justice, we are of the considered opinion that the disallowance confirmed by the Id. CIT(A) is at an higher side. Accordingly, we direct the Assessing Officer to disallow

20% of total disallowance of ₹.12,69,740/- and the income of the assessee may be recomputed accordingly.

8. So far as assessment year 2019-20 is concerned, the Assessing Officer disallowed 30% of the total expenses of ₹.4,90,49,931/-, which comes to ₹.1,47,14,979/- since the assessee could not produce documentary evidences for the expenses incurred. On appeal before the Id. CIT(A), the assessee has submitted that the expenditure to the extent of ₹.2,93,65,308/- is covered by TDS and therefore, the said expenditure should be allowed in full. With regard to the balance amount of ₹.1,96,84,623/-, the assessee has submitted before the Id. CIT(A) that the books of accounts were duly audited under section 44AB of the Act and the Assessing Officer has not pointed any specific defect or discrepancy in the books of accounts and prayed for allowance of entire claim made by the assessee. After considering the submissions of the assessee, to the extent the expenditure covered by TDS of ₹.2,93,65,308/-, the Id. CIT(A) allowed the claim made by the assessee. Since the assessee could not produce evidences to substantiate the business purpose of the expenses, the Id. CIT(A) sustained the disallowance of 30% on the balance non-TDS suffered expenses of ₹.1,96,84,623/-. Considering the nature of business of the assessee being event manager for corporate

and the authorities below have not found any specific defect of discrepancy in the books of accounts and the books of accounts were duly accepted, we sustain the disallowance of 10% on the balance non-TDS suffered expenses of ₹.1,96,84,623/-. Accordingly, the Assessing Officer is directed to recompute the income of the assessee.

9. In the result, both the appeals filed by the assessee are partly allowed.

Order pronounced on 21st April, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 21.04.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR &
6. गार्ड फाईल/GF.