

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'B' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 120/KOL/2023
Assessment Year: 2014-2015**

***Jinraj Paper Udyog Pvt. Limited,..... Appellant
C/o. Subash Agarwal & Associates,
Advocates,
Siddha Gibson,
1, Gibson Lane, Suite 213, 2nd Floor,
Kolkata-700069
[PAN: AAHCA4854A]
-Vs.-***

***Income Tax Officer,.....Respondent
Ward-9(3), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri Siddharth Agarwal, Advocate, appeared on behalf of
the assessee*

*Shri P.P. Barman, Addl. CIT, Sr. D.R., appeared on
behalf of the Revenue*

Date of concluding the hearing : March 29, 2023

Date of pronouncing the order : April 17, 2023

O R D E R

Per Dr. Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2014-15 is directed against the order of

ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 16.12.2022, which is arising out of the order under section 143(3) of the Act on 22.12.2016 framed by ITO, Ward-9(3), Kolkata.

2. The grounds raised by the assessee are as under:-

- (1) For that on the facts and in the circumstances of the case, the ld. CIT(A) was not justified in confirming the estimated disallowance of indirect expenses to the extent of Rs.11,74,754/- being 10% of the indirect expenses out of total estimated disallowance of Rs.23,49,510/- made by the AO*
- (2) For that on the facts and in the circumstances of the case, the ld. CIT(A) ought to have deleted the entire estimated disallowance of indirect expenses to the tune of Rs.23,49,510/- made by the AO being 20% of the total estimated disallowance of Rs.1,17,47,544/-.*
- (3) The appellant craves leaves to add further grounds of appeal or alter the grounds at the time of hearing.*

3. Brief facts of the case are that the assessee is a Private Limited Company engaged in the business. Income of Rs.1,49,930/- declared in the return of income for A.Y. 2014-15 was filed by the assessee on 30.09.2014. The case of the assessee was selected for scrutiny under CASS followed by serving of notice under section 143(2) and 142(1) of the Act. The ld. Assessing Officer on going through the details filed by the assessee observed that the assessee has shown the turnover of Rs.28.07 crores and reflected a meager net profit of

Rs.1,00,194/-. Thereafter the ld. Assessing Officer examined the financial statements and came of the conclusion that the assesee has claimed excessive expenditure and made ad hoc disallowance of 20% of the indirect expenditure of Rs.1,17,47,544/- and made the disallowance at Rs.23,49,510/- and assessed the income at Rs.24,99,440/-. Aggrieved, the assessee preferred appeal before the ld. CIT(Appeals) and partly succeeded. The ld. CIT(Appeals) sustained the disallowance at 10% as against 20% made by the ld. Assessing Officer and sustained the disallowance at Rs.11,74,754/-. Aggrieved, now the assessee is in appeal before the Tribunal challenging the disallowance of expenditure of Rs.11,74,754/-.

4. Ld. Counsel for the assessee referring to the paper book containing 260 pages filed on 27.03.2023 stated that the alleged disallowance is merely ad hoc in nature and no discrepancy has been noticed by both the lower authorities in the financial statements filed by the assessee including the audit report. Copies of income-tax returns for A.Y. 2013-14 and 2015-16 i.e. preceding and subsequent year filed in order to submit that the net profit percentage is consistent.

5. On the other hand, ld. D.R. supported the order of both the lower authorities.

6. We have heard the rival contentions and perused the relevant material available on record. Disallowance of expenditure at Rs.11,74,754/- by the ld. CIT(Appeals) is in dispute before us. We observe that the ld. Assessing Officer while computing the assessment proceeding made an ad hoc disallowance of 20% on the total indirect expenditure of Rs.1,17,47,544/- stated in the Profit & Loss Account. The said sum amounting to Rs.1,17,47,544/- includes the Employee Benefit Expense of Rs.26,91,890/-, Finance Costs of Rs.41,04,375/-, Depreciation and Amortisation Expense of Rs.2,27,459/- and Other Expenses of Rs.47,23,820/-. It is surprising to note that the ld. Assessing Officer before making the alleged disallowance firstly did not note down any discrepancy in the audited books of account since the same has not been rejected, and secondly the ld. Assessing Officer has also not analyzed the nature of the expenditure and while making the ad hoc disallowance has even included the depreciation expense also. It clearly shows that the ld. Assessing Officer did not apply his mind before making the ad hoc disallowance and it is consistently held that such ad hoc disallowance without finding any defect in the books of account is not justified. We are, therefore, of the considered view that merely making disallowance for the sake of concluding assessment proceeding and to show that some addition has been made cannot be held to be a valid action. We, therefore, set aside the finding of the ld. CIT(Appeals) and delete the alleged disallowance of Rs.11,74,754/- challenged before us. Thus Grounds No. 1 & 2 of the assessee's appeal are allowed.

7. Ground No. 3 is general in nature, which does not require any adjudication.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 17th April, 2023.

Sd/-

**(Rajpal Yadav)
Vice-President**

Sd/-

**(Manish Borad)
Accountant Member**

Kolkata, the 17th day of April, 2023

*Copies to :(1) Jinraj Paper Udyog Pvt. Limited,
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1, Gibson Lane, Suite 213, 2nd Floor,
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*(2) Income Tax Officer,
Ward-9(3), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069*

*(3) Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC), Delhi;*

4) Commissioner of Income Tax- ;

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.