

IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. /ITA No.301/PUN/2023

निर्धारण वर्ष / Assessment Year : 2017-18

Pushpak Steel Industries Private Limited, Gat No.119, Alandi Markal Road, Villdhanore, Pune 412 105 Maharashtra PAN : AABCP0081C	Vs.	ACIT, Circle-10, Pune
Appellant		Respondent

Assessee by Shri Sarvesh Khandelwal
Revenue by Ms. Neha Deshpande

Date of hearing 11-05-2023
Date of pronouncement 16-05-2023

आदेश / ORDER

PER R.S. SYAL, VP:

This appeal by the assessee arises out of the order dated 20-01-2023 passed by the CIT(A) in National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2017-18.

2. The only issue assailed in this appeal is against the confirmation of disallowance of car expenses incurred by the assessee, a Private Limited company, towards personal use by the two Directors.

3. Filtering out unnecessary details, the facts of the case are that assessee had two vehicles appearing in its balance sheet, which were used by the Directors for the business purpose. The assessee claimed

deduction of depreciation, interest and maintenance amounting to Rs.10,88,998/- on these vehicles. In the absence of the assessee furnishing the log books, the AO made disallowance @15% of total expenses, which worked out to Rs.1,51,350/-. The ld. CIT(A) affirmed the disallowance, against which the assessee has approached the Tribunal.

4. Having heard both the sides and gone through the relevant material on record, it is seen that the assessee under consideration is a Private Limited Company. It is an undisputed fact that the company provided vehicles to its employees for their use for which the purchase price was paid by the company to the extent it did not exceed the fixed benchmark. The major reason given by the AO for disallowing the expenses incurred on cars is the personal use of vehicles by the directors-employees of the company. The Delhi Bench of the Tribunal in *DCIT vs. Haryana Oxygen Ltd. (2001) 76 ITD 32 (Del)* has held that the use of cars by directors-employees of a company cannot be characterized as user for non-business purpose and, hence, no part of such car expenses can be disallowed. The Hon'ble Gujarat High Court in *Sayaji Iron and Engineering Company vs. CIT (2002) 253 ITR 749 (Guj)* has held that once the directors of the assessee company are entitled to use the vehicles of the company for personal use as per the terms and conditions of their appointment, it cannot be

said that there was a personal use of cars. The Hon'ble High Court further held that such user of vehicles by the employees of the company cannot even be considered as 'non-business user'. There are innumerable judgments on this point holding that there can be no disallowance of depreciation or other expenses on maintenance of the vehicles used by the directors/employees by treating it as personal user or non-business user of the company. I fail to see any rationale in disallowing the expenses incurred on cars as for personal use, when admittedly these have been provided to director-employees. A company is a separate legal entity distinct from its directors or employees. As such, there can be no question of treating the use of vehicles by the directors/employees as a personal use by the company. I, therefore, order for the deletion of disallowance of expenses incurred on vehicles.

5. In the result, the appeal is allowed.

Order pronounced in the Open Court on 16th May, 2023.

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 16th May, 2023
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The Pr.CIT concerned
4. DR, ITAT, 'SMC' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	11-05-2023	Sr.PS
2.	Draft placed before author	16-05-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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