

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "G", MUMBAI

Before Shri B R Baskaran, Hon'ble Accountant Member,
& Shri Rahul Chaudhary, Hon'ble Judicial Member

ITA No.3545/Mum/2014
(Assessment Year: 2010-11)

Shirish M Dalvi, D Block , 1 st Floor, Zojwala Complex, Sahajanand Chowk, Kalyan 421 301. PAN AADPD0358H (Appellant)	Vs.	DCIT Circle 23(3), Mumbai (Respondent)
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Appellant By : Shri Sunil Rohra
Respondent By : Dr Kishor Dhule

Date of Hearing : 27.06.2023	Date of Pronouncement : 27.06.2023
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ORDER

Per B R Baskaran, Accountant Member:

The assessee has filed this appeal challenging the order of the CIT(A)-33, Mumbai, relating to assessment year 2010-11. This appeal was disposed off by the Tribunal vide its order dated 31.10.2022. Since the Tribunal did not adjudicate Ground no.7 urged by the assessee, he filed a Miscellaneous Application. Accordingly, the above said order was re-called by the Tribunal vide its order dated 28.04.2023 passed in MA No.436/Mum/2022, in order to adjudicate Ground no.7 relating to disallowance of expenses.

2. We heard the parties and perused the record. The assessee is engaged in the business of trading in land and joint venture in construction. The Assessing Officer noticed that the assessee has claimed an expenditure of Rs 29.66 lacs towards various expenses besides claiming expenses relating to land. The Assessing Officer took a view that the books of account maintained by the assessee are not proper and, accordingly, rejected the same. Hence, the Assessing Officer took the view that various expenses claimed by the assessee are to be allowed on adhoc basis. Accordingly, he disallowed 80% of the various administrative expenses claimed by the assessee, which worked out to Rs 23,73,288/-.

3. In the appellate proceedings, the learned CIT(A) held that the action of the Assessing Officer in rejecting the books of account is not acceptable. With regard to the expenses disallowed by the Assessing Officer, the learned CITA) restricted the disallowance to 50% of the expenses. Still aggrieved, the assessee has contested the decision of the learned CIT(A) on this issue before the Tribunal.

4. We heard the parties and perused the record. The detail of expenses claimed by the assessee aggregating to 29.66 lacs is given at page 29 of the assessment order. On a perusal of the same, we noticed that a sum of Rs 21.48 lacs has been incurred towards salary and bonus. The remaining expenses claimed by the assessee is Rs 8.18 lacs, which consisted of various administrative expenses like advertisement, car expenses, depreciation, rent, telephone, travelling

etc., which are normally incurred by a business concern. Accordingly, we are of the view that disallowance of 50% confirmed by the learned CIT(A) is also on the higher side. We note from the orders passed by the tax authorities that they have not made any adverse observation in respect of various administrative expenses claimed by the assessee. Accordingly, we are of the view that this issue can be put to rest if the disallowance is restricted to 5% of the aggregate amount of expenses, which works out to ₹1,48,330/-. Accordingly, we set aside the order passed by the learned CIT(A) on this issue and direct the Assessing Officer to restrict the disallowance to the above said amount.

5. In the result, Ground no.7 urged by the assessee is partly allowed.

Order pronounced in the open court on this day of 27th June, 2023.

Sd/-

(Rahul Chaudhary)
JUDICIAL MEMBER

Sd/-

(B R Baskaran)
ACCOUNTANT MEMBER

Mumbai, Dated : 27th June, 2023
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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. The DR, 'G' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai