

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER  
AND  
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**ITA No.71/JODH/2020  
Assessment Year : 2015-16**

M/s Lila Trading Company, Shop No. 97, New Dhan Mandi Sri Ganganagar PAN: AAAFL5911B	Vs	Income Tax Officer, Ward-1, Sri Ganganagar
Appellant / Assessee		Respondent / Revenue

Assessee by	None
Revenue by	Ms. Nidhi Nair, JCIT-DR
Date of hearing	07.08.2023
Date of pronouncement	08.08.2023

**ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the Assessee against the order of Id. Commissioner of Income Tax (Appeals), Bikaner dated 31.12.2019 emanating from the order of Income Tax Officer, Ward-1, Sri Ganganagar under section 143(3) of the Act for A.Y. 2015-16. The grounds of appeal raised by assessee are as under:-

*“1. In facts and circumstances, Ld. CIT (A) was not justified in sustaining 10% disallowance of Rs.53,220 made out of aggregate claim of Rs.5,32,209 under five heads of expenses on the grounds that some of vouchers were produced and most of the vouchers being self- made verification of possibilities of personal use or their correctness could not be ascertained but*

*the AO did not point out specific instance despite detailed account copies was filed and claim of expenses was reasonable in light of its nature of business having huge commission receipts of Rs.23,66,620.*

*2. In facts and circumstances, Ld. CIT (A) was not justified in sustaining addition of Rs.1,82,400 as notional income for non-charging of interest on Rs.15.20 Lac given to M/s Govindam Colonizers Pvt. Ltd. and found to be interest free nor it was justified by disallowance of claim for interest u/s 36(1)(iii) or u/s 37 because no interest bearing funds was used this year for such interest-free advance/loan and adequate interest-free creditors worth Rs.1,25,86,893 also were available.*

*3. Charging of interest U/s 234D is against law & facts.”*

### **Findings & Analysis**

4. Heard the Ld. DR and perused the records. None appeared on behalf of the assessee. However, the assessee had filed the paper book on record.

### **Ground No. 1**

5. It is observed from the assessment order that the assessee had claimed following expenditures:

1.	<i>Car Expenses</i>	<i>222708/-</i>
2.	<i>Dep. On Car</i>	<i>205424/-</i>
3.	<i>Telephone Expenses</i>	<i>25425/-</i>
4.	<i>Shop Expenses</i>	<i>49467/-</i>
5.	<i>Tea Expenses</i>	<i>29185/-</i>
	<i>Total</i>	<i>532209/-</i>

The Assessing Officer observed that assessee failed to produce documents to substantiate the claim of the expenditure. Therefore, Assessing Officer disallowed 10% of the expenditure of Rs. 5,32,209/- i.e. Rs. 53,220/-. The ld. CIT(A) confirmed the addition on the ground that no details were filed before him also.

6. Before us, the assessee had filed a paper book containing 17 pages. Before us also, assessee has not filed any document to prove the genuineness of the expenditure claimed other than the ledger accounts. It is observed from the ledger accounts of the car expenses that most of the expenses are in cash. In these facts and circumstances of the case, since assessee failed to produce the documentary evidence to substantiate the claim of expenditure. We agree with the disallowance made by the Assessing Officer. The onus was on assessee and assessee has failed to substantiate. Accordingly, ground no. 1 of the assessee is dismissed.

**Ground No. 2**

7. In the assessment order, it is mentioned that assessee has given loan of Rs. 15,20,000/- to its sister concerned and no interest has been charged. Therefore, Assessing Officer added notional interest @ 12%. Thus, Assessing Officer made an addition of Rs. 1,82,400/-. There is no provision in the Income Tax Act to add such notional interest therefore, we direct the Assessing Officer to

delete the said addition. Accordingly, ground no. 2 of the assessee is allowed.

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

Order pronounced on 08<sup>th</sup> August, 2023.

*Sd/-*

**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Dated: 08/08/2023

*Sh.*

*Sd/-*

**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
6. Guard File

Asstt. Registrar

Jodhpur Bench