

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No. 54/Ind/2023**  
**Assessment Year: 2014-15**

M/s. Gupta Sons, 46, Ram Laxmi Parisar, Malviya Nagar, Bhopal	<b><u>बनाम/</u></b> Vs.	ITO, 1(4), Bhopal
(Assessee / Appellant)		(Revenue / Respondent)
<b>PAN: AAEEFG8044L</b>		
Assessee by	Shri Anil Khabya & Shri Sumit Khabya, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	02.08.2023	
Date of Pronouncement	11.08.2023	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by appeal-order dated 30.01.2023 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)"], which in turn arises out of assessment-order dated 19.12.2016 passed by learned ITO, Ward-1(4), Bhopal ["Ld. AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2014-15, the assessee has filed this appeal on following grounds:

"1. That the Ld. CIT(A) erred in confirming adhoc disallowance of various expenses totaling to Rs. 16,04,740/- detailed as under :-

(i)	Telephone expenses	54,600/-
(ii)	Sales Promotion Expenses	11,36,600/-
(iii)	Vehicle expenses	1,03,840/-
(iv)	Staff Welfare	1,34,200/-
(v)	Travelling expenses	1,75,500/-

2. That Ld. CIT(A) erred in not deleting levy of interest u/s 234B when on the face of record there was no liability to pay advance tax on assessee in view of assessed loss."

2. Heard the learned Representatives of both sides at length and case-records perused.

3. Brief facts leading to present appeal are such that the assessee is a partnership firm. The return of relevant assessment year was filed declaring a loss of Rs. 76,90,816/-, which was subjected to scrutiny assessment. While completing assessment, the AO made two additions, namely, (i) Depreciation disallowance of Rs. 81,072/- and (ii) Adhoc disallowance out of following expenses:

S.No.	Head of Expenditure	% of disallowance	Total Expenditure	Disallowable expenditure
1.	Telephone Expenses	20%	2,73,081	54,600
2.	Sale Promotion Expenses	50%	22,73,208	11,36,600
3.	Vehicle Expenses	20%	5,19,175	1,03,840
4.	Staff Welfare Expenses	20%	6,71,003	1,34,200

5.	Travelling Expenses	20%	8,77,513	1,75,500
			Total	16,04,740

4. Aggrieved, the assessee carried matter in first appeal whereupon the Ld. CIT(A) deleted the disallowance of depreciation, but, however, upheld the adhoc disallowance of expenses. Still aggrieved, the assessee has come in this appeal before us.

5. The grievance in present appeal is qua the adhoc disallowance of expenses, as detailed above, aggregating to Rs. 16,04,740/-.

6. Ld. AR for assessee carried us to Para No. 7 of assessment-order where the AO has made impugned disallowance. Ld. AR submitted that the AO has made a general remark that certain expenses like telephone expenses, sales promotion, vehicle expenses, staff welfare and travelling expenses are not fully verifiable for want of bills/vouchers. The AO has also mentioned that the expenses are claimed on the strength of self-made vouchers and, therefore, leakage of revenue cannot be ruled out. But the AO has not cited a single instance of any such expenditure. Ld. AR submitted that the finding given by AO is vague and nothing concrete or cogent is mentioned. Moreover, the AO has made adhoc disallowance of 20% (50% in case of sales promotion) but there is no authority in law to make adhoc disallowance. Therefore, Ld. AR contended, the disallowance made by AO deserves to be deleted. Alternatively, Ld. AR submitted that 20% disallowance out of expenses is much high and even 50% disallowance out

of sales promotion is grossly wrong, the disallowance out of sales-promotion should be kept at parity with other expenses. Taking example of another concern of assessee group named "M/s. Star Delta Transformers Ltd.", Ld. AR submitted that while completing assessment of that concern, the AO made 10% adhoc disallowance out of similar expenses (including sales promotion) and in first-appeal the CIT(A) has reduced/restricted disallowance to 5%. Copy of relevant order is filed on record. Therefore, in the present case also, the disallowance should be reduced/restricted to 5% in place of 20%/50% made by AO.

7. Per contra, Ld. DR for the revenue dutifully supported the orders of lower authorities. However, Ld. DR fairly agreed that if the Bench feels that the disallowance is on higher side, it may be restricted to 10% in all expenses (including sales promotion) and not 5% as requested by Ld. AR. This, according to Ld. AR, would meet the same proportion of relief as given by CIT(A) in case of M/s Star Delta Transformers Ltd. where the CIT(A) has reduced/restricted from 10% to 5%. This would also bring sales promotion expenditure at par with other expenses.

8. We have considered rival submissions. After taking into account the arguments of Ld. Representatives of both sides, we feel that 20%/50% disallowance made by the AO is on higher side and the same can be restricted to 10% as per the logic advanced by Ld. DR. This will give an appropriate relief to assessee. Therefore, we direct the AO to restrict the disallowance to 10% in all expenses (including sales promotion) and pass

needful order to delete the excess disallowance over and above 10%. The assessee succeeds partly.

**9. Resultantly, this appeal of the assessee is partly allowed.**

*Order pronounced in the open court on 11/08/2023.*

sd/-  
(VIJAY PAL RAO)  
JUDICIAL MEMBER

sd/-  
(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक /Dated : 11.08.2023

CPU/Sr. PS

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Indore Bench, Indore*