

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, JODHPUR
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No. 36/JODH/2023

(A.Y: 2014-15)

Bikaner Ceramics Pvt Ltd., Industrial Area, Bikaner-334001, Rajasthan.	Vs.	ACIT, Circle – 1 Bikaner, Rajasthan.
RPAN/GIR No. : AAACB6690C		
Appellant	..	Respondent

Assessee by :	Shri Amit Kotharia, CA.AR
Revenue by :	Ms. Prerana Choudhary, JCIT DR

Date of Hearing	16.08.2023
Date of Pronouncement	17.08.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre (NFAC), Delhi / CIT(A) passed u/s 143(3) and U/sec 250 of the Act. The assessee has raised the following grounds of appeal.

1. *The Id. CIT(A) has erred in upholding the order passed by Id. AO u/s 143(3). The order so made is bad in law and bad on facts.*

2. *The Id. CIT(A), has erred in sustaining the disallowance of Rs. 12,19,794/-, made by ld. AO on ad-hoc basis at 20% of certain expenses claimed. The disallowance so made is bad in law and bad on facts.*
- 3 *The appellant craves leave to add, alter, amend or vary from the above the above grounds of appeal at or before the time of hearing.*

2.The brief facts of the case that the assessee is a partnership firm and is engaged in manufacturing of insulators and mining products. The assessee has filed the return of income for the A.Y 2014-15 on 13.11.2014 disclosing a total income of Rs. 64,06,550/-. Subsequently the case was selected for scrutiny and notice u/s 143(2) and 143(1) of the Act along with questionnaire was issued. In compliance to notice, the Ld. AR of the assessee appeared from time to time and submitted the details. The AO on perusal of the financial statements found that the assessee has claimed various expenditures in the profit and loss account and to test check the transactions, the AO called for clarifications and the details. Similarly the AO found that the assessee has claimed expenditure in the profit & loss account with respect to repairs and

maintenance, printing and stationary, freight & Cartage Expenses, repairs / building expenses, postage, telephone, liquidity damages, conveyance expenses, cartage waste and scrap shifting expenses and miscellaneous expenses and the AO was not satisfied with the vouchers and bills and hence made disallowance of 20% of the expenses as unverifiable. Similarly the AO find that that the assessee has claimed miscellaneous expenses of Rs. 12,76,571/- and there are no proper vouchers produced and most of the bills are with incomplete details and the A.O has estimated the disallowance of expenses @ 20% which worked out to Rs. 2,55,314/-. Finally the AO has assessed the total income of Rs. 76,26,344/- and passed the order u/s 143(3) of the Act dated 01.12.2016.

3. Aggrieved by the order the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the grounds of appeal and findings of the AO and has confirmed the disallowances and dismissed the assessee appeal. Aggrieved

by the order of the CIT(A) the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in confirming the disallowance made by AO overlooking the facts and submissions made in the assessee's proceedings. Further the disallowance of the expenses are routine day to day expenses and at higher side and prayed for allowing the appeal. Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material available on record. The Ld. AR submitted that the CIT(A) has erred in sustaining the addition of expenses estimated @ 20% i.e Rs. 12,19,794/-. The AO has not considered any specific expenditure to be disallowed and the assessee has incurred the expenditure for the purpose of business, and the AO on the presumptions and assumptions has estimated the disallowance @ 20% of the claim debited to the profit & Loss account which is at higher side. We find the A.O has not disputed the

genuineness of the expenditure claimed and the utilization of expenses is wholly and exclusively for the purpose of business but due to non production of complete bills and vouchers has estimated the disallowance 20%. We considering the overall facts, turnover and nature of business activities of the assessee and to meet the ends of justice, set aside the order of the CIT(A) and direct the Assessing officer to restrict the disallowance of above aggregate expenditure @ 10% and we partly allow the grounds of appeal of the assessee

6. In the result the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 17.08.2023.

Sd/-

(DR DIPAK P RIPOTE)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Jodhpur Dated 17.08.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)

4. Concerned CIT
5. DR, ITAT, Jodhpur
6. Guard file.

//True Copy//

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आदेशानुसार/ BY ORDER,

(Asst. Registrar)
ITAT, Jodhpur