

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

(THROUGH VIRTUAL HEARING)

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

I.T.A. No.01/JBP/2023
Assessment Year: 2014-15

Mohan Lal Hargovind Das Bidi Udyog Private Limited, 90, M. H. House, Gole Bazar, Jabalpur. PAN:AACCM9520G (Appellant)	Vs.	Dy.C.I.T., Circle-2(1), Jabalpur. (Respondent)
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Appellant by	Shri Dhiraj Ghai, C.A. Learned Authorised Representative
Respondent by	Shri Ravi Mehrotra, Learned Senior Departmental Representative
Date of hearing	16/08/2023
Date of pronouncement	18/08/2023

ORDER

PER ANADEE NATH MISSHRA:A.M.

(A) Appeal vide I.T.A. No.01/JBP/2023 has been filed by the assessee for assessment year 2014-15 against impugned appellate order dated 29/11/2022 (DIN & Order No.ITBA/NFAC/S/250/2022-23/1047705424(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short]. The grounds of appeal are as under:

- "1. *On the facts in the circumstances, the learned CIT(A) was not justified in restricting disallowance to the extent of Rs. 83,860/- (ad hoc 10%) from Rs.4,19,293 (ad hoc 50%) of messing expenses in spite of the fact that expenses were fully vouched,*

were for business purpose and were well supported and auditor has not pointed out any defect in audit report.

2. *On the facts in the circumstance the Id CIT(A) was not justified in restricting disallowance to the extent of Rs. 88,525/-(ad hoc 10%) from Rs.1,77,051 (ad hoc 20%) of office expenses in spite of the fact that expenses were fully vouched, were well for business purpose and supported and auditor has not pointed out any defect in audit report.*
3. *On the facts in the circumstance the Id CIT(A) was not justified in confirming addition of Rs.11,48,976@5% of total expenses on ad hoc basis in spite of the fact they were fully vouched, were for business purpose and were well supported and auditor has not pointed out any defect in audit report.*
4. *On the facts in the circumstance the Id CIT(A) was not justified in allowing ad-hoc disallowance of Freight, mess and office expenses in lieu of the jurisdictional Jabalpur ITAT decision in the case of Ganesh Pratap Singh vs ACIT (ITA no 214 / JAB/ 2013) decided on 23.06.2016 where it is held that held that no disallowance can be made on ad hoc basis."*

(A.1) In this case assessment order dated 24/10/2016 was passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 ("IT Act" for short) wherein the assessee's total income was assessed at Rs.1,03,63,738/- (rounded off to Rs.1,03,63,740/-), as against returned income of Rs.83,76,410/-. The points of dispute before us are regarding the disallowances made under the heads messing expenses, office expenses and freight inward expenses. The Assessing Officer made disallowances amounting to Rs.4,19,293/- and Rs.1,77,051/- and Rs.11,48,976/- out of the aforesaid heads of expenses @50%, 20% and 5% of the total claim made by the assessee under these heads, respectively. Vide impugned appellate order dated 29/11/2022, the learned CIT(A) confirmed disallowance of Rs.83,860/- out of messing expenses, @10% of assessee's total claim of expenses under this head and deleted the remaining amount of disallowance. Under the head office expenses, the learned CIT(A)

confirmed disallowance amounting to Rs.88,525/- which was 10% of the assessee's total claim of expenses under this head and deleted the remaining amount of disallowance. Thus, the learned CIT(A) allowed partial relief to the assessee in respect of aforesaid two disallowances. Under the head freight inward expenses, the learned CIT(A) confirmed the disallowance of Rs.11,48,976/- made by the Assessing Officer.

(B) Aggrieved, the assessee has filed this present appeal before us in Income Tax Appellate Tribunal ("ITAT" for short) .

(B.1) At the time of hearing before us, the assessee was represented by Shri Dhiraj Ghai, C.A. and Revenue was represented by Shri Ravi Mehrotra, learned Senior Departmental Representative. We have heard both of them. We also have perused the materials on record. After hearing both of them and on perusal of records, we find that the disallowance made by the Assessing Officer under the heads office expenses and freight inward expenses are on lump sum basis by applying ad hoc rates, without specifying any specific item of expenses which were not properly supported by vouchers, bills and ledger entries. At the same time it has been conceded by learned Counsel for the assessee at the time of hearing before us that these expenses are, partially, not supported by proper bills and vouchers. In view of these facts and circumstances of the present case before us; the representatives of both sides, learned Counsel for the assessee and learned Sr. D.R. for Revenue were in agreement at the time of hearing that some disallowance of expenses under these heads of expenditure would be just and fair, and they both left it to the discretion of the Bench to decide reasonable quantum of disallowance under these heads that would be fair, reasonable and just to both the sides. After due consideration of the submissions made by the representative of both sides and after perusal of all the materials on record, we are of the view that a disallowance of

Rs.10,000/- out of office expenses and a disallowance of Rs.50,000/- out of freight inward expenses would be fair, reasonable and just for both sides. Accordingly, we confirm the disallowance amounting to Rs.10,000/- out of office expenses and a disallowance of Rs.50,000/- out of freight inward expenses and we direct the Assessing Officer to delete the remaining amount of disallowance under these heads. Accordingly, grounds 2 & 3 of appeal are partly allowed.

(C) As regards messing expenses, which is the subject matter of ground 1 of appeal, we find, on perusal of paragraph 6.3 of the impugned appellate order of learned CIT(A) that in assessment year 2013-14, the assessee had itself suo motu disallowed an amount of 10% out of assessee's total claim of messing expenses amounting to Rs.8,83,437/-. Thus, the assessee had suo motu disallowed an amount of Rs.88,344/- out of the claim made under the head messing expenses in assessment year 2013-14. The disallowance made this year by the Assessing Officer @50% of assessee's claim of expenses has been substantially reduced by learned CIT(A) in the aforesaid appellate order. The learned CIT(A) has restricted the disallowance to Rs.83,860/- which is @10% of total assessee's claim under this head of expenditure. The disallowance confirmed by learned CIT(A) is smaller in quantum as compared to suo motu disallowance made by the assessee itself in assessment year 2013-14, while it is the same in percentage terms i.e. @10% of the assessee's claim under the head messing expenses as compared with suo motu disallowance made by the assessee itself in assessment year 2013-14. We are of the opinion, in view of the aforesaid and having regard to specific facts and circumstances of the present case before us, that the order of the learned CIT(A) on this issue is fair, reasonable and just to both sides, and that there is no case for our intervention on this issue. Accordingly, we dismiss first ground of appeal.

(D) Ground 4 of appeal is treated as disposed off in terms of our decision on grounds 1, 2 and 3 of appeal; and ground 4 of appeal is treated as partly allowed for statistical purposes.

(E) All the grounds of appeal are treated as disposed off in accordance with this order and our aforesaid directions.

(F) In the result, the appeal is partly allowed for statistical purposes.

(Order pronounced in the open court on 18/08/2023)

Sd/.
(SUDHANSHU SRIVASTAVA)
Judicial Member

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Dated:18/08/2023
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT

4. D.R., I.T.A.T.,
5. CIT(A)

Assistant Registrar