

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI 'E' BENCH, MUMBAI.

Before Shri B.R. Baskaran (AM) & Shri Rahul Chaudhary (JM)

I.T.A. No. 2323/Mum/2023 (A.Y. 2014-15)

K.C. Palia A-2, Mehta Building, Captain Colony, Tardeo Road, Tulsiwadi, Mumbai Central, Mumbai 400 034.  PAN : AGJPP7641P (Appellant)	Vs.	ACIT, Circle 19(2), Mumbai.  (Respondent)
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Assessee by	Shri N.M. Porwal
Department by	Shri P.D. Chogule
Date of Hearing	10.10.2023
Date of Pronouncement	10.10.2023

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 6.6.2023 passed by Ld CIT(A), NFAC, Delhi and it relates to the assessment year 2014-15. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the disallowances made by the AO.

2. We heard the parties and perused the record. The assessee is engaged in the business of real estate and involved in development of township and construction of bungalows. The assessee filed return of income for the year under consideration declaring a total income of Rs.1.45 crores. It was taken up for scrutiny. The AO completed the assessment by making adhoc disallowance of 20% out of the following expenses on the reasoning that they may include personal expenses.

Staff welfare expenses	-	15,93,364
Conveyance expenses	-	2,47,401
Telephone expenses	-	11,62,313
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		30,03,078
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20% of the above		6,00,616

The AO completed the assessment by making addition of Rs.6,00,616 to the total income returned by the assessee.

3. Before Ld CIT(A), the assessee did not appear and hence the Ld CIT(A) dismissed the appeal of the assessee. Aggrieved, the assessee has filed this appeal before the Tribunal.

4. The Ld A.R submitted that the assessing officer had made identical disallowance @ 20% in assessment year 2009-10 and the Ld CIT(A), vide his order dated 02-07-2014 passed in Appeal No. CIT(A)-27/ACIT 16(1)/427/2011-12 had reduced the disallowance to 10%. He further submitted that probability of personal element may be presumed in the case of conveyance and telephone expenses, but not for Staff welfare expenses. Accordingly, he prayed that the disallowance made in respect of conveyance and telephone expenses may be reduced to 10% and the disallowance made out of staff welfare expenses may be deleted.

5. We heard Ld D.R and perused the record. We notice that the AO has made the disallowance of 20% on adhoc basis on the reasoning that they may involve personal element. As submitted by Ld A.R, the question of personal element should not arise in the case of Staff welfare expenses unless it is proved by any evidence. Accordingly, we are of the view that the AO was not justified in disallowing 20% from out of staff welfare expenses. Accordingly, we direct him to delete the same.

6. With regard to the adhoc disallowance made out of conveyance and telephone expenses, we notice that the Ld CIT(A) had reduced the

disallowance to 10% of the expenses in AY 2009-10. Following the same, we direct the AO to delete the disallowance out of conveyance and telephone expenses to 10%. We order accordingly.

7. In the result, the appeal filed by the assessee is partly allowed.

Pronounced in the open court on 10/10/2023.

Sd/-  
(RAHUL CHAUDHARY)  
Judicial Member

Sd/-  
(B.R. BASKARAN)  
Accountant Member

Mumbai; Dated : 10/10/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(Judicial)
4. PCIT
5. DR, ITAT, Mumbai
6. Guard File.

BY ORDER,

//True Copy//

(Assistant Registrar)  
ITAT, Mumbai