

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI**

श्री वी. दुर्गा राव, माननीय न्यायिक सदस्य एवं  
श्री मंजूनाथा .जी, माननीय लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND  
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.923/Chny/2023  
निर्धारण वर्ष /Assessment Year: 2014-15

M/s.CPF (India) Pvt. Ltd., No.40, 2 <sup>nd</sup> Street, 1 <sup>st</sup> Floor F2, Sparton Nagar, Mogappair, Chennai-600 037. [PAN: AAACC 4209 Q]	<b>v.</b>	The Asst. Commissioner- of Income Tax, Corporate Circle-1(2), Chennai.
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>
अपीलार्थी की ओर से/ Appellant by	:	Shri Naresh Singh Rathore, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri AR.V.Sreenivasan, Addl.CIT
सुनवाई की तारीख/Date of Hearing	:	17.10.2023
घोषणा की तारीख /Date of Pronouncement	:	17.10.2023

**आदेश / ORDER**

**PER MANJUNATHA.G, AM:**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), Income Tax Department, National Faceless Appeal Centre (NFAC), Delhi, dated 26.06.2023, and pertains to assessment years 2014-15.

**2. The assessee has raised the following grounds of appeal:**

*1. For that the order of the National Faceless Appeal Centre (NFAC) is contrary to law, facts and circumstances of the case to the extent prejudicial to the interest of*

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*the assessee and at any rate is opposed to the principles of equity, natural justice and fair play.*

*2. For that the NFAC failed to appreciate that the order of assessment is bad in law.*

*3. For that the NFAC failed to appreciate that the order of assessment is passed without intimating the appellant about the change in incumbent office.*

*4. For that the NFAC failed to appreciate the fact that the details sought in the notice under section 142(1) of the Income Tax Act, 1961 was duly submitted by the appellant.*

*5. For that the NFAC failed to appreciate that the additions made in the order of assessment is without serving show cause notice to the appellant & thereby principles of natural justice is violated.*

*6. For that the NFAC failed to appreciate that the order of assessment is passed without adhering to the instruction no.20/2015 prescribed by the Hon'ble Central Board of Direct Taxes (CBDT) & thus, the impugned addition had to be set aside.*

*7. For that the NFAC failed to appreciate that the order of assessment is passed without calling for any documents for verification.*

*8. For that the NFAC failed to appreciate that the order of assessment is passed merely on surmises & conjectures.*

*9. For that the NFAC failed to appreciate that the appellant had provided the sample invoices of Rs.6,55,879/- for verification and in the event of same being allowed in full, the balance of Rs.15,54,152/- ought to have been allowed as it is of the same nature & being incurred wholly and exclusively for the purpose of the business of the appellant.*

*10. For that the NFAC failed to appreciate that the entertainment expense incurred by the appellant is towards food of customers, vendors & employees at various meetings & the same being incurred wholly and exclusively for the purpose of business.*

**PRAYER**

*For these grounds and such other grounds that may be urged before or during the hearing of the appeal it is most humbly prayed that the Hon'ble Tribunal may be pleased to*

*a. Delete the disallowance of Rs.15,54,152/- and / or*

*b. Pass such other orders as the Hon'ble Tribunal may deem fit.*

**3.** The brief facts of the case are that the assessee company filed original return of income for AY 2014-15 on 29.11.2014 admitting a total loss of Rs.34,79,74,994/-. The case was selected for scrutiny and during the

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course of assessment proceedings, the AO noticed that the assessee has claimed huge expenditure under the head 'miscellaneous expenses'. Details were called for and the assessee vide letter dated 05.11.2016 submitted the details. On perusal, it was seen that an amount of Rs.22,20,031/- has been claimed as entertainment expenses. The AO further noticed that the assessee has already claimed similar expenses under advertisement promotion, etc., and debited an amount of Rs.1.30 Crs. Since, the assessee could not furnish necessary evidences in support of entertainment expenses, the AO has disallowed total expenditure of Rs.22,20,031/-, and added back to the total income.

**4.** Being aggrieved by the assessment order, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee challenged the additions made by the AO towards disallowance of entertainment expenses along with additional evidences. The assessee has filed copies of vouchers in support of entertainment expenses amounting to Rs.6,55,879/- . The Ld.CIT(A) called for Remand Report from the AO. However, the AO has not submitted the Remand Report. Therefore, the Ld.CIT(A) after considering relevant evidences filed by the assessee, allowed relief to the extent of Rs.6,55,879/- towards disallowance of entertainment expenses and sustained balance addition of Rs.15,64,152/-. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

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**5.** The Ld.Counsel for the assessee submitted that the Ld.CIT(A) erred in sustaining balance amount of Rs.15,64,152/- towards disallowance of entertainment expenses without appreciating the fact that the assessee has furnished only sample copies of invoices for entertainment expenses. The Ld.Counsel for the assessee further submitted that the assessee has filed a ledger extract of expenditure and also filed few sample copies. The Ld.CIT(A) has allowed relief to the extent of evidences filed by the assessee. However, sustained balance amount without calling for further evidences from the assessee. Since, the Ld.CIT(A) has allowed relief to the assessee, wherever, the assessee could file necessary evidences, he ought not to have disallowed balance amount, when there is no discrepancy in expenses debited under the head 'entertainment expenses'. In this regard, he relied upon the decision of the co-ordinate Bench in the case of G. Vanaja in ITA No.413/Chny/2020 order dated 15.03.2023.

**6.** The Ld.DR, on the other hand, supporting the order of the Ld.CIT(A), submitted that the Ld.CIT(A) has allowed relief wherever the assessee could furnish evidences for expenditure. The assessee could not furnish any evidences for balance amount of expenditure. Therefore, the Ld.CIT(A) has rightly sustained the balance addition and their orders should be upheld.

**7.** We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. It is an admitted

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fact that the assessee could not file any evidences to justify expenditure incurred under the head 'entertainment expenses' during the course of assessment proceedings. It is also an admitted fact that the assessee could not file evidences to the extent of Rs.6,55,879/- only. Even before us, the assessee could not file any evidences except filing a ledger account of entertainment expenses. When the Bench asked the Counsel to produce necessary evidences, the Ld.Counsel for the assessee expressed his inability to file any evidences and only argued that when part of expenditure has been allowed, then, remaining expenditure cannot be disallowed without any observation. We find that the Ld.CIT(A) has allowed relief to the extent of Rs.6,55,879/- on the ground that the assessee could not file evidences for expenditure. We further noted that the Ld.CIT(A) could not point out any discrepancy for evidences filed by the assessee to the extent of Rs.6,55,879/-. The balance amount has been disallowed for want of evidences. In other words, the Ld.CIT(A) has sustained balance addition for want of evidences without pointing out any discrepancy 'as to how' expenditure incurred by the assessee is wholly and exclusively not incurred for the purpose of business of the assessee. Since, both the parties failed to prove their case with necessary evidences, in our considered view, a reasonable disallowance needs to be made for entertainment expenses. Therefore, considering the facts and circumstances of the case and also evidences filed by the assessee before the lower authorities, we are of the considered view that the assessee deserves for further relief of 50% of

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balance additions sustained by the Ld.CIT(A). Thus, we direct the AO to allow relief to the assessee to the extent of 50% of addition of Rs.15,64,152/- sustained by the Ld.CIT(A).

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

Order pronounced on the 17<sup>th</sup> day of October, 2023, in Chennai.

**Sd/-**

(वी. दुर्गा राव)

**(V. DURGA RAO)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 17<sup>th</sup> October, 2023.

**TLN**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त/CIT

4. विभागीय प्रतिनिधि/DR

**Sd/-**

(मंजूनाथा.जी)

**(MANJUNATHA.G)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

5. गार्ड फाईल/GF