

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT  
(Conducted Through Virtual Court)

**Before: Shri Waseem Ahmed, Accountant Member  
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 64/Rjt/2019  
Assessment Year: 2015-16**

Smt. Krishna Rajvir Singh Hooda Pro. Of M/s. Haryana Popular Roadlines House No. 104, Near Raja Tower, Opp. SVET College, Jamnagar-361001 PAN No: AACPH0366E (Appellant)	Vs	The Income Tax Officer, Ward-1(3), Jamnagar  (Respondent)
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**Assessee Represented: Shri Chetan Agarwal, A.R.  
Revenue Represented: Shri Shakeel Ansari, Sr.D.R.**

Date of hearing : 05-12-2023  
Date of pronouncement : 20-12-2023

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

This appeal is filed by the Assessee as against the appellate order dated 05.02.2019 passed by the Commissioner of Income Tax (Appeals), Jamnagar, arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2015-16.

2. The brief facts of the case is that the assessee is an individual and engaged in the business of transport contractor and commission agent under the proprietary concern namely M/s. Haryana Popular Roadlines having business situated at Jamnagar. Transportation activity was carried out by the assessee by owning trucks and arranged trucks from retail truck owners. For the Assessment Year 2015-16, assessee filed his Return of Income on 29.09.2015 declaring total income of Rs.7,30,630/- which includes business income, property income and other sources. The return was taken up for scrutiny assessment and made a disallowance of freight expenses of Rs.20,06,850/- and disallowance of toll tax expenses of Rs.10,80,150/- and demanded tax thereon.

3. Aggrieved against the same, the assessee filed an appeal before Commissioner of Income Tax (Appeals). The Ld. CIT(A) given relief of Rs.14,06,850/- and confirmed balance Rs.6,00,000/- disallowance on freight expenses. The Ld. CIT(A) deleted Rs.5,50,000/- on the toll tax expenses and confirmed balance Rs.5,30,150/-.

4. Aggrieved against the same, the assessee is in appeal before us raising the following Grounds of Appeal:

*The impugned order is liable to be quashed and set aside on account of following amongst other grounds which are taken independent of and without prejudice to each other:*

*a) That under the facts and circumstances of the case the Ld. CIT(Appeals) erred in sustaining addition made by A.O. to the extent of Rs.6,00,000/- on account of disallowance of Freight Expenses and accepting corresponding freight income. Without rejecting the books of account u/s 145(3).*

*b) That under the facts and circumstances of the case the Ld. CIT(Appeals) erred in sustaining addition made by A.O. to the extent of Rs.5,30,150/- on account of disallowance of all Toll Tax Expenses and accepting corresponding freight income.. Without rejecting the books of account u/s 145(3).*

*c) That the appellant craves leave to and/or to amend to and/or to alter to and/or to substitute to all or any of the grounds of appeal during the hearing of the appeal.*

5. Ld. Counsel Mr. Chetan Agarwal appearing for the assessee submitted in the Remand proceedings, the Ld. A.O. out of 60 LRs, 21 LRs contain Copy of RC book and Driving License, remaining LRs contain Copy of RC book and Copy of PAN card to prove the genuineness of the freight expenses. Thus the assessee produced all the required details before the Assessing Officer. However Ld. CIT(A) confirmed a lump sum addition of Rs.6,00,000/- on account of freight expenses. Thus Ld. Counsel claimed that when the assessee produced all the LRs with supporting documents like Copy of RC book, Driving License or PAN card which clearly prove the genuineness of the transaction of freight expenses. Thus the A.O. did not file any adverse remark about the LRs submitted by the assessee except fees for which the assessee provided original LRs for verification. Thus the Ld. CIT(A) is not correct in confirming an addition of Rs.6,00,000/- on lump sum basis which is more than 80% the total income declared in the return by the assessee. Therefore requested to delete the addition of Rs.6,00,000/- made on account of freight expenses.

5.1. Similarly on account of toll tax expenses, the Ld. CIT(A) confirmed an addition of Rs. 5,30,150/- which is approximately 50% of the expenses incurred. The Ld. CIT(A) also held that the toll

tax expenses of Rs.10,80,150/- was on higher side without considering the total freight income of Rs.6.99 crores wherein approximately 1.5% only on the total freight income. The toll tax expenses is a statutory expenses in the transport business and no question of making disallowance on estimation basis. Therefore the disallowance confirmed by the Ld. CIT(A) is liable to be deleted.

6. Per contra Ld. Sr. D.R. Shri Shakeel Ansari appearing for the Revenue supported the orders passed by the Lower Authorities and requested to confirm the same.

7. We have given our thoughtful consideration and perused the materials available on record and voluminous Paper Book running to 304 pages filed by the assessee, wherein confirmation of accounts by various parties, ledger account of the freight income, copy of toll tax receipts and copy of LRs and the replies filed by the assessee before the Assessing Officer. After calling for the Remand Report from the Assessing Officer, he admitted that 21 LRs contain RC book and driving license of the owners and driver and found to be genuine. Regarding the remaining 39 LRs, they do not have driving license and copy of RC book and some of the LRs are not readable/legible. Therefore the assessee produced 36 original LRs before the Assessing Officer and the same were verified on random basis. The assessee also produced copy of the RC book, LR of the trip, PAN card in certain cases. Therefore the Ld. CIT(A) has estimated the addition to the extent of Rs.6,00,000/- which is in our view is on the higher side. Therefore the same is restricted to 10% of the total addition namely Rs.2,00,685/-. The Ld. A.O. is

directed to restrict the disallowance of freight expenses to Rs.2,00,685/-.

8. The Ld. CIT(A) also confirmed the addition on toll tax expenses of Rs.5,30,150/- as against the total disallowance of Rs.10,80,150/- made by A.O. This toll expenses are statutory expenses, without which the assessee cannot carry out his business. Though it is claimed some of the toll tax slips which are not legible/readable after a week time, when the drivers handed over the same to the assessee, the same cannot be disallowed since these toll taxes are fixed to the concerned toll plazas and highway. Therefore we hereby delete the balance confirmation of Rs.5,30,150/- made by the Ld. CIT(A). Thus in entirety the disallowance made under toll tax expenses are deleted.

9. In the result, the appeal filed by the Assessee is partly allowed.

Order pronounced in the open court on 20-12-2023

**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER True Copy**  
**Ahmedabad : Dated 20/12/2023**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
राजकोट