

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H": NEW DELHI**

**BEFORE  
SHRI M BALAGANEH, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 113/DEL/2024  
Asstt. Year: 2017-18

Akash Enterprises, D-112, Vivek Vihar, New Delhi PIN: 1100 95  PAN No. AATFA0422D	Vs.	ACIT, Tax Circle-58(1), Vikas Bhawan, IP Estates, Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by:	Shri Rakesh Dubey, Adv.
Department by:	Shri Manish Tiwari, SR DR
Date of Hearing:	05.06.2024
Date of pronouncement:	09.08.2024

**ORDER**

**PER VIMAL KUMAR, JUDICIAL MEMBER:**

The assessee's appeal is against order dated 23.11.2023 of the learned Commissioner of Income-Tax(Appeals)/National Faceless Appeal Centre(NFAC),Delhi.

2. Brief facts of the case are that for the assessment year 2017-18, the appellant-assessee filed return showing income of Rs.79,45,954. During assessment proceeding under Section 143(3) of the Act, learned Assessing Officer vide order dated

29.12.2019, assessed the income at Rs.1,07,05,245 making disallowance of salary and electricity expenditure claimed by assessee Rs.27,59,259 i.e. 10% of Rs.2,52,96,000 + Rs.22,96,952. Appellant-assessee filed the appeal before the learned Commissioner of Income-Tax (Appeals). Vide order dated 23.11.2027, ld. CIT(Appeals) deleted the addition made for disallowance of electricity expenses and confirmed the addition of Rs.25,29,600 as disallowed 10% of expenses in respect of salary of staff employees.

3. Being aggrieved, the appellant/assessee preferred present appeal.

4. Learned Authorised Representative for the appellant/assessee submitted that learned CIT (Appeals) has wrongly confirmed the addition of Rs.25,29,600 as disallowed 10% of expenses in respect of salary of staff/employees by ld. Assessing Officer without considering documents filed. Learned CIT(Appeals) erred in not considering the submission of the assessee about the facts that assessee participated in the Government auction for allotment of liquor vends/shops. Assessee got the liquor license for the period from 01.04.2016 to 31.03.2017 from Government of Punjab to operate the liquor

vends/shops in different parts of State of Punjab and assessee has appointed temporary several staff/employees to run its vends/shops in different parts of the Punjab. The paper book submitted by the assessee contains list of salary of employees filed before Assessing Officer as Annexure "A" at page nos. 9 to 11 and Affidavit and Aadhar copy/voter card as Annexure "B" at page nos.12 to 263.

5. Learned DR for and on behalf of the Revenue supported the orders of the authorities below. He pleaded before us that during the course of assessment proceeding, assessee could not furnish any document such as salary register, PF & ESI before the Assessing Officer. Learned CIT (Appeals) also confirmed the view of the Assessing Officer by making detailed observation in para 5.6 of his order. He also advanced his arguments that it is not clear as to why no PF/ESI deduction has been made by the assessee from the payment made to its 125 employees. The mode of payment of Rs.2,52,96,000 booked under the head "Salary" has also not been disclosed. Further learned DR submitted that assessee could not substantiate its claim of expenditure with any cogent evidence and prayed for the dismissal of the order of the learned CIT (Appeals).

6. We have carefully examined the rival contentions in the light of the aforesaid rival contentions. It is crystal clear that learned CIT (Appeals) confirmed disallowance of 10% of the salary expenses by observing that salary register and details of deduction of PF and ESI have not been furnished. During the appellate stage, the appellant-assessee has submitted written submission, list of Annexure 'A' (list of salary's & employees filed documents before the Assessing Officer and Annexure 'B' (Affidavit and Aadhar Card/Voter Card).

7. In view of the above material facts, the ends of justice shall be sufficiently meet, if the matter is sent back to the file of the Assessing Officer for fresh decision in accordance with law.

8. Hence, appeal is allowed for statistical purposes.

Order pronounced in the open court on this 09<sup>th</sup> day of August, 2024.

Sd/-

**(M BALAGANEH)**  
**ACCOUNTANT MEMBER**

Sd-/

**(VIMAL KUMAR)**  
**JUDICIAL MEMBER**

Dated: 09/08/2024

***Mohan Lal***

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi