

3. We noticed from the grounds of appeal that the assessee is aggrieved by the decision of CIT(A) in confirming the disallowance of maintenance expenses of Rs.12,74,133/- and partial confirmation of disallowance of motor car expenses by the Assessing Officer.

4. We heard the learned DR and perused the record. The assessee is engaged in the business of providing networking services, installing and trading in IT products.

5. The first issue relates to disallowance of maintenance expenses. The Assessing Officer noticed that the assessee has claimed a sum of Rs.12,74,133/- under the head "Maintenance charges" paid to 6 persons. The assessee furnished the ledger account copies of the said parties, but did not produce any bills or vouchers. Hence, the Assessing Officer disallowed the above said amount treating the same as not proved by the assessee. The CIT(A) also confirmed the same observing that the assessee has not furnished confirmation from the payees and also did not furnish the details of bank transactions to prove the genuineness of the transactions.

6. We noticed that the assessee has paid maintenance charges to 7 persons. According to the assessee, these persons are employees of the assessee and hence the ledger account copies were furnished to the tax authorities. The assessee has also stated before the CIT(A) that the relevant vouchers were furnished alongwith ledger account copies before the Assessing Officer, but the Assessing Officer did not verify the same. Thus, according to the assessee, it has furnished the vouchers before the Assessing Officer alongwith ledger account copies. Even though the CIT(A) has taken

note of this fact, yet he has confirmed the disallowance by observing that the payment made to 6 individuals has not been proved. Under Section 37(1) of the Income Tax Act, 1961 ('Act' for short), an expenditure is allowed as deduction if it is fully and exclusively laid out or expended for the purpose of business. Even if the payment is postponed, yet the relevant expenditure is allowable as deduction under the mercantile system of accounting when the liability to pay arises. In the instant case, the Assessing Officer has stated that the assessee is following mercantile system of accounting and hence the actual payment may not be relevant to decide the allowability of the expenditure. We noticed that the CIT(A) has confirmed the addition only for the reason that the assessee has not proved the actual payment, which is not required under the Act. Accordingly, we set aside the order passed by the CIT(A) on this issue and direct the Assessing Officer to delete the disallowance of maintenance expenses.

7. The next issue relates to disallowance of motorcar expenses. The Assessing Officer disallowed 20% of motorcar expenses observing that the usage of the motorcar for personal purposes is not allowable under the Act. The CIT(A) restricted the same to 10% and hence the assessee is aggrieved.

8. We heard the learned DR and perused the record. The assessee has incurred a sum of Rs.20,55,591/- towards motorcar expenses, but the Assessing Officer has taken cognizance of Rs.18,63,955/- for the purpose of computing the disallowance. The contention of the assessee before the CIT(A) was that the assessee being a private limited company and a separate legal entity, the question of personal expenditure does not arise. However, what is required to be seen is whether the expenditure incurred on motorcar is for the

purpose of business or not. If it is expended or laid out fully and exclusively for the purpose of business, the same is allowable as deduction. Since the assessee has failed to maintain log books, it is always possible to presume that some portion of the motorcar expenses might not have been incurred for the purpose of business. Under this proposition we are of the view that the CIT(A) was justified in confirming disallowance of motorcar expenses to the extent of 10%. Accordingly, we uphold the order passed by CIT(A) on this issue.

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

Order pronounced in the open court on 3rd September, 2024.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 03/09/2024

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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.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai