

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri TR Senthil Kumar , Judicial Member**

**ITA No. 212/Ahd/2024
Assessment Year 2021-22**

Ishwarlal Harjivandas Jewellers Pvt. Ltd. F/2 Amar Complex, Swastik Cross Road, Navrangpura, Ahmedabad-380009 PAN: AABCI6528H (Appellant)	Vs	The ACIT, Circle-2(1)(1), Ahmedabad (Respondent)
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**Assessee by: Shri Mehul K. Patel, A.R.
Revenue by: Shri Prateek Sharma, Sr. D.R.**

Date of hearing : 04-07-2024
Date of pronouncement : 30-09-2024

आदेश/ORDER

PER : TR SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the assessee as against the appellate order dated 29-12-2023 passed by NFAC, Delhi arising out of the assessment order passed u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') relating to assessment year 2021-22.

2. The brief facts of the case, the assessee is a private limited company engaged in the business of manufacturing and trading of gold, platinum, silver and diamonds and also jewellery/ornaments thereof. For the assessment year 2021-22, the assessee filed its return of income on 11-02-2022 declaring total income of Rs. 1,75,81,470/-. The return was taken for scrutiny assessment for large turnover from jems and jewellery business and not returned income. The Assessing Officer disallowed commission expenses of Rs. 5,00,000/- paid to Shri Dhannanjay Kishanrav Katkar of M/s. Jai Santoshi Mata Touch Lab and also disallowed vehicle petrol and repair expenses of Rs. 3,47,376/- i.e. 50% of the total expenses disallowed on account of personal use.

3. Aggrieved against the assessment order, the assessee filed appeal before the Id. CIT(A) who confirmed the above addition in spite of detailed submission with evidences filed before the CIT(A). However, the CIT(A) restricted the petrol and vehicle repair expenses at 10% which works out to Rs. 69,475/-, thus, partly allowed.

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

“(1) That on facts, in law, and on evidence on record, the learned National Faceless Appeal Centre (NFAC) has grievously erred in confirming the disallowance of commission expenses of Rs.5,00,000/-.

(2) That on facts, in law, and on evidence on record, the learned National Faceless Appeal Centre (NFAC) has grievously erred in partly confirming the disallowance of Rs. 69,475/- at 10% (out of 50%) made out of Vehicle petrol/ repairing expenses.

(3) The appellant craves leave to add, alter, amend any ground of appeal.”

5. Ld. counsel, Shri M.K. Patel, appearing for the assessee submitted before us a paper book wherein invoice raised by M/s. Jai Santoshi Mata Touch Lab to the assessee vide invoice no. 93 on 08-03-2021 for a sum of Rs. 5,00,000/- with applicable CGST and SGST totaling Rs. 5,90,000/-. The ld. counsel also produced copy of the purchase made from M/s. Narayan Jewellers and M/s. Sona Hi Sona Jewellers (Gujarat) Ltd. amounting of Rs. 2 crore vide five invoices during various periods. With reference to M/s. Jai Santoshi Mata Touch Lab, the ld. counsel also submitted the corresponding invoices issued by the assessee to M/s. Narayan Jewellers and M/s. Sona Hi Sona Jewellers (Gujarat) Ltd. with applicable GST at 3%. Thus, ld. counsel also brought to our notice that TDS on the above commission income of Rs. 18,750/- deducted by the assessee and the payee offered this commission income and also claimed TDS in his return of income filed on 20-01-2022 before the concerned authority. Thus, ld. counsel claimed

that the lower authorities are not correct in disallowing the commission expenses claimed by the assessee company.

6. Per contra ld. SR DR supported the order passed by Lower Authorities and requested to confirm the disallowances.

7. We have given our thoughtful consideration and perused the materials available on record including the paper books filed by the assessee. It is undisputed fact that commission was paid by the assessee company to Shri Dhannanjay Kishanrav Katkar, Proprietor of M/s. Jai Santoshi Mata Touch Lab for sales commission which was paid through banking channel and credited to his bank account after making TDS of Rs. 18,750/-. Pursuant to the same, the payee filed his return of income on 20-01-2022 disclosing the 'commission income' and also the TDS claim of Rs. 18,750/-. Thus, the Assessing Officer is not correct in making disallowance of Rs. 5,00,000/- as the commission expenses paid by the assessee company. Therefore, the addition made on this account is liable to be deleted and **ground no. 1 is allowed.**

8. Regarding, ground no. 2 vehicle petrol & repair expenses which are restricted to 10%, we do not find infirmity in the restriction made by CIT(A) and no other materials. Thus, **ground no. 2 raised by the assessee is hereby dismissed.**

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

Order pronounced in the open court on 30-09-2024

Sd/-

Sd/-

(ANNAPURNA GUPTA) (T.R. SENTHIL KUMAR)
ACCOUNTANT MEMBER True Copy JUDICIAL MEMBER
Ahmedabad : Dated 30/09/2024

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,
अहमदाबाद