

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD
BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER**

**ITA No.413/Ahd/2023
Asstt.Year : 2013-14**

Keyursinh Ranjitsinh Parmar Bharat Kutir, Pratima Society Vijay Char Rasta Navrangpura Ahmedabad 380009. PAN : AODPP 2255 D	Vs	ITO, Ward-5(1)(2) Ahmedabad.
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(Applicant)		(Responent)
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Assessee by :	Shri M.K. Patel, Advocate
Revenue by :	Shri Ravindra, SR.DR

सुनवाई की तारीख/Date of Hearing : 09/10/2024
घोषणा की तारीख /Date of Pronouncement: 09/10/2024

आदेश/ORDER

This is assessee's appeal against the order of the ld.Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi dated 13.3.2023 for the Asst.Year 2013-14 passed under section 250 of the Income Tax Act, 1961 ("the Act" for short).

2. The assessee has raised the following grounds in the appeal against the impugned order of the ld.CIT(A).

"1. That on facts, and in law, both the learned A.O. and Ld. CIT(A) has grievously erred in treating the commission income as business income, instead of accepting it as income from other sources, as prayed for.

2. That on facts and in law, the learned A.O has grievously erred in making disallowance of expenses of Rs.9,13,335/- and in confirming the same by CTT(A) being, legitimate expenses like staff salary, petrol, telephone, office expenses etc.

3. That in law, on facts and evidence on record, it ought to have been held that no disallowance is called for as entire expenses are genuinely incurred to earn the income;

4. The Ld. A.O. has grievously erred in assuming this jurisdiction when case was selected under scrutiny for verification of expenses claimed u/s 57 of the IT Act, 1961 from income from other sources whereas A.O. has exceeded the jurisdiction in considering the income declared by the assessee under the head from income from other sources as business income without approval of higher authorities."

3. Heard both the parties and perused material available on record, as also pleadings made in the grounds of appeal reproduced above.

4. As the facts emerge, the assessee received income of Rs.17,46,272/- and claimed expenses of Rs.9,83,333/- towards expenses. The AO treated the income received under the head "Income from Business or Profession", but disallowed the expenses claimed on account of staff salary and the driver expenses. Since the AO himself treated the income under the head "Business and Profession", the expenses are also to be allowed. Since the expenses are pertaining to the staff salary, petrol, telephone and office expenses, the same shall be allowed being expenses incurred in connection with the earning of the income under the "Business or Profession". Therefore, I do not find any merit in the action of the Revenue authorities in disallowing the impugned office expenses.

5. In the result, the appeal of the assessee is allowed.

Dictated on the Open Court, typed and pronounced on 9th October, 2024.

Copy of this order be given to the assessee. The Registry is directed to dispatch as per procedure.

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Ahmedabad, dated 09/10/2024
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