

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.185/Nag./2024
(Assessment Year : 2015-16)

Sharda Ispat Limited
Kamptee Road, Nagpur 440 026
PAN – AABCS8628N

..... Appellant

v/s

Asstt. Commissioner of Income Tax
Circle-2, Nagpur

..... Respondent

Assessee by : Ms. Shikha Loya
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 30/09/2024

Date of Order – 22/10/2024

ORDER

PER K.M. ROY, A.M.

The assessee has filed this appeal challenging the impugned order dated 31/01/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2015-16.

2. Following grounds have been raised by the assessee:-

"(1) That the order of the learned Assistant Commissioner of Income Tax, Circle-2, Nagpur u/s 143(3) is bad in law and wrong on facts and the learned CIT(A) erred in confirming the same.

(2) That the learned CIT(A) erred in law and on facts in confirming the addition of Rs.1,45,965/- made by the Assessing Officer holding that the pooja expenses are not business expenditure. On the facts and circumstances of the case, and in light of judicial decisions, the expenses

were incurred during the course of business and hence allowable. The action of learned authorities is illegal and not justified.

(3) That for any other ground with kind permission of your honour at the time of hearing of appeal."

3. Facts in Brief:- The assessee company is engaged in the business of manufacturing of industrial products like Flats, Alloys, Carbon & Spring Steel Products, etc., filed its return of income on 24/09/2015 for the year under consideration. Books of account were subject to audit under Companies Act and section 44AB of the Income Tax Act, 1961 ("*the Act*"). The case was opened for scrutiny assessment under section 143(3) of the Act. The Assessing Officer made addition of ₹ 1,45,965, being Pooja Expenses incurred at the factory premises, holding that the same are not business expenses and hence not allowed as deduction. The assessee was not satisfied with the order passed by the Assessing Officer and hence filed appeal before the first appellate authority.

4. The learned CIT(A) confirmed the order passed by the Assessing Officer holding that the expenditure is not incurred wholly and exclusively for the purpose of business of the assessee company.

5. During the course of hearing, the learned Authorised Representative submitted that the assessee has tried to justify the Pooja Expenses incurred during festivals like Ram Navami, Navratri, Diwali, Vishwakarma, etc. Even evidences have also been produced relating to the claim. The assessee has also appointed one Poojari for daily office Pooja on monthly payment basis to ensure maintaining positivity in working environment. She submitted that

these expenses are incurred for welfare of workers. However, the Assessing Officer, relying upon certain judicial pronouncements, rejected the claim. The learned CIT(A) held that the Pooja expenditure cannot be treated as expenditure incurred wholly and exclusively for the purpose of business and hence deduction cannot be allowed under section 37(1) of the Act. The learned Authorised Representative, in support of his arguments, relied on the following case laws: –

- i) Atlas Cycle Industries Ltd. v/s CIT, [1981] 6 Taxman 145 (P&H);*
- ii) Brijraman Das & Sons v/s CIT, [1983] 12 Taxman 377 (Del.);*
- iii) CIT v/s Mohan Meakin Ltd., [2010] 189 Taxman 377 (Del.);*
- iv) CIT v/s Dalmia Cement (Bharat) Ltd., [2013] 29 taxmann.com 227 (Del.);*
- v) CIT v/s Aruna Sugars Ltd. [1981] 132 ITR 718 (Mad.);*
- vi) JCIT v/s Gillander Arbithnot & Co. Ltd., ITA no744/Kol./2012, dated 30/10/2015 (Kol. Trib.);*
- vii) DCIT v/s Hira Ferro Alloys Ltd. [2018] 90 taxmann.com 430 (Raipur Trib.); and*
- viii) Karur Vysya Bank Ltd. v/s ACIT, [2013] 38 taxmann.com 247 (Chennai Trib.).*

6. The learned Departmental Representative vehemently supported the order of the authorities below and prayed that the concurrent findings need not be tempered with.

7. We have given a thoughtful consideration to the arguments made by the rival parties and perused the material available on record. We find that the issue for our adjudication was appropriately considered by the Co-ordinate Bench of the Tribunal, Raipur Bench, in Hira Ferroy Alloys Ltd.

(supra) wherein similar issue has been decided by the Bench in favour of the assessee and against the Revenue by observing as under:-

"49. The Assessing Officer observed that the assessee has claimed an amount of Rs.96,041/- and Rs.80,015/- towards charity and donation and Pooja and festival expenses, which are not allowable in company's case. Therefore, he disallowed the same.

50. On appeal, the CIT(A), the assessee submitted that out of Rs. 80,015/-, an amount of Rs. 71,779/- was expended for purchase of distribution of sweets to all the employees/workers on the auspicious occasion of Viswakarma pooja day, independence day and republic day. The assessee relied on the CBDTG Circular No. 17(F.No.27(2)-IT/43) dated 6-5-1983 & Circular No.13A/20/68-IT-II dated 3-10-1968, wherein, it was emphasized that expenses incurred on the occasion of Diwali and Muhurat are in the nature of business expenditure. Based on these circulars, the CIT(A) allowed Rs.71,779/- and disallowed balance of Rs.1,01,277/-. Hence, the revenue is in appeal before us.

51. Having heard Id D.R., we see no good reason to interfere with the order of the CIT(A) as the CIT(A) has allowed relief considering the CBDT Circulars referred above (supra). Hence, we dismiss this ground of revenue."

8. Relying upon the stated jurisprudence, we hold that Pooja Expenses incurred for ₹ 1,45,965, are allowable under section 37 of the Act. Before us, the learned Departmental Representative failed to bring out any cases favouring the Revenue. Hence, we set aside the impugned order passed by the learned CIT(A) by allowing all the grounds raised by the assessee.

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

Order pronounced in the open Court on 22/10/2024

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED: 22/10/2024

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur