

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1934/Bang/2024
Assessment Year: 2011-12

Pramod Kumar Mishra Plot No.10, Tilka Nagar, Dharampeth Nagpur (Urban) Nagpur Shankar Nagar SO Maharashtra 441 406  <b>PAN NO : APXPM5724P</b>	<b>Vs.</b>	ACIT Circle-1 Bijapur Karnataka
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Siddesh N Gaddi, A.R.
<b>Respondent by</b>	:	Ms. Neha Sahay, D.R.

<b>Date of Hearing</b>	:	18.11.2024
<b>Date of Pronouncement</b>	:	27.11.2024

**O R D E R**

**PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:**

Present appeal of the assessee is arising from the order of Id. CIT(A)/NFAC dated 20.8.2024 having DIN & Order No.ITBA/NFAC/S/250/2024-25/1067762799(1) and relates to AY 2011-12.

**2.** Facts as culled out from the order of authorities below are the assessee is a trader and dealing in the trading of iron ore. The assessee filed its return of income for the impugned year on 26.9.2011 declaring an income of Rs.42,32,090/-. Thereafter, the case of the assessee was selected for scrutiny and statutory notices u/s 143(2) & 142(1) of the Income Tax Act, 1961 (in short “The Act”) were issued according. During the course of assessment proceedings, the AO observed that the assessee has failed to prove the expenses

incurred towards screening charges of the iron ore and accordingly, the AO disallowed an amount of Rs.62,65,070/- claimed by assessee toward screening charges. Similarly, the AO has also disallowed an amount of Rs.46,98,801/- incurred by assessee towards commission payments.

**3.** Aggrieved with the order of AO, the assessee filed appeal before the ld. CIT(A) and contended that the disallowances made by the AO are not justifiable. The ld. CIT(A) finding force in the argument of the assessee, sustained the disallowance to the tune of 1/5<sup>th</sup> of the total disallowances and deleted the balance amount incurred by assessee in relation to both commission and screening charges.

**3.1.** Still aggrieved, the assessee has come up in appeal before us. The assessee has raised 13 grounds of appeal. At the time of hearing, the ld. Counsel for the assessee could not press ground Nos.1 to 3. In rest of the grounds, the assessee has challenged the disallowances towards screening charges and commission payment as sustained by the ld. CIT(A). The main plank of the argument of counsel for the assessee is that the books of accounts of the assessee are audited and the assessee has proved the genuineness of the expenses beyond doubt and hence, there is no reason to sustain 1/5<sup>th</sup> disallowance. Counsel for the assessee further contended that the assessee has also deducted TDS on the payments made towards these expenses. At last, counsel for the assessee argued that similar expenses were claimed in earlier year also and the assessment of that year has been completed u/s 143(3) of the Act and no disallowance has been made.

**4.** The ld. D.R. appearing on behalf of the revenue relied upon the orders of authorities below.

5. We have heard the rival submissions and perused the materials available on record. We observe that the assessee has duly discharge his burden of proving the expenses before the lower authorities with the help of the documentary evidences. Once it is proved that the expenses are genuine then there is no concept of adhoc disallowances under the provisions of Income Tax Act. Therefore, the approach of the CIT(A) in sustaining the part disallowance is not legally correct. Therefore, having regard to the fact that the expenses incurred were genuine and similar expenses were also allowed in previous year, assessment of which is framed under section 143(3), we allow the appeal of the assessee and direct the AO to delete the disallowances sustained by the CIT(A).

**6. In result the appeal of the assessee is allowed.**

Order pronounced in the open court on 27<sup>th</sup> Nov, 2024

**Sd/-**  
**(Prashant Maharishi)**  
**Vice President**

**Sd/-**  
**(Prakash Chand Yadav)**  
**Judicial Member**

Bangalore,  
Dated 27<sup>th</sup> Nov, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**