

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW 'A' BENCH, LUCKNOW**

**BEFORE SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.148/Lkw/2018
A.Y. 2015-16

Tirubala International Pvt. Ltd., C-7, Panki Industrial Area, Kanpur, U.P.	vs.	Deputy Commissioner of Income-Tax, Range-VI, Kanpur
PAN:AAECT2086J		
(Appellant)		(Respondent)

Assessee by:	Sh. Vikas Garg, FCA
Revenue by:	Sh. Sanjeev Krishna Sharma, Addl CIT DR
Date of hearing:	02.09.2024
Date of pronouncement:	25.10.2024

ORDER

PER SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER:

This is an appeal against the order of the Id. CIT(A)-2, Kanpur passed under section 250 of the Income Tax Act, 1961 dated 27.12.2017, against the order of the DCIT-6, Kanpur under section 143(3) of the I.T. Act, 1961, dated 19.04.2017. The grounds of appeal preferred are as under:-

"1. That the authorities below have erred in law and on facts in making a disallowance of Rs.3,00,000/- out of expenses claimed under the sub head Travelling, Telephone and General expenses, grouped under the head other expenses.

2. That the said disallowance of Rs.3,00,000/- is adhoc, arbitrary, without any basis and therefore to be deleted.

3. The appellant craves leave to add, alter, amend any/all of the grounds of appeal before or during the course of the appeal."

2. The facts of the case are that the ld. AO while conducting scrutiny assessment of the assessee's case observed that many of the supportive evidences for sub heads, "Travelling Expenses", "General Expenses" and, "Telephone Expenses" were self-made vouchers and the payments were made in cash. The ld. AO opined that these self-made vouchers were not open to third party verification and the "Possibility of inflating the expenses" could not be denied under these circumstances. Thus, he opined that the assessee had not discharged its onus of proving beyond doubt, that the expenses were wholly and exclusively incurred for the purposes of business. Accordingly, the assessee, vide order-sheet entry dated 19.04.2017 was required to explain as to why the lump sum amount of Rs.3,00,000/- should not be disallowed from total expenses of these sub heads. As no explanation was furnished, therefore the ld. AO added back a sum of Rs.3,00,000/- to the income of the assessee.

3. Aggrieved with the said addition, the assessee filed an appeal before the ld. CIT(A)-Kanpur. In the statements of facts filed along with the appeal, it was submitted that the assessee was a company engaged in the manufacturing and exports of Leather Footwear and Leather products. It had filed a return of Rs.14,08,66,400/-. However, the ld. AO had made an adhoc addition on account of travelling expenses, general expenses and telephone expenses of Rs.3,00,000/-. It was submitted, in the grounds of appeal, that the ld. AO had erred by making disallowance as the disallowance was arbitrary without any basis and much too high and excessive. The ld. CIT(A) records that he issued four notices to the assessee for compliance, but compliance was not made and written submissions or paper books were not filed. He, therefore, held that the assessee was not serious about pursuing the appeal. He went through the contents of the assessment order and opined that he had no reason to interfere with the stand taken by the ld. AO.

4. The assessee is aggrieved at this summary dismissal of appeal and has accordingly come before us. Shri Vikas Garg, FCA, (hereinafter referred to as the "Id. AR"), argued the case before us. It was submitted that the said disallowance of Rs.3,00,000/- was arbitrary, adhoc and without any basis whatsoever. Merely because the vouchers had been self-made and payments incurred in cash, was not a ground for the Id. AO to conclude that there was any inflation of expenses on these accounts. Furthermore, it was submitted that it was evident from the orders of the Id. AO, that the case had been selected through CASS for limited scrutiny on other grounds and the Id. AO after examining those other grounds had not found any reason to make addition on that account. It was therefore submitted that it was also beyond the jurisdiction of the Id. AO, to enquire into other aspects of the assessee's case, in a matter of limited scrutiny and thereafter to make a disallowances with regard to the same.

5. On the other hand, Sh. Sanjeev Krishna Sharma, the Id. Addl CIT DR (hereinafter referred to as the "Id. DR") pointed out that large other expenses claimed in profit & loss account was a ground for limited scrutiny and it was in discharge of this ground that the Id. AO had investigated the claimed expenses. On investigation, it had been found that the expenses had been incurred in cash and the possibility of inflation of expenses was there, therefore, the Id. AO was justified in making a disallowance.

6. We have duly considered the facts and circumstances of the case. The mere finding that certain expenses have been incurred in cash and backed by self-made vouchers, is not enough ground to hold that those expenses have been inflated unless the Id. AO does an analysis of the expenses in the context of the activities of the assessee's company and the scale of its operations. No such analysis seems to have been done by the Id. AO. No facts have been brought on record as to how any expenditure appeared to be excessive. In fact the Id. AO has only vouched his

apprehension that there was a possibility of inflating of expenses. In our opinion, apprehension of inflation, is not a valid ground for disallowing any expenses. There must be some finding of fact, to show that the expenses were unreasonable in proportion to the scale of operations or the activities of the assessee company. Moreover, even after this, there must be a basis for disallowance of a particular amount, by way of a finding of fact that they were not incurred wholly and solely for the purposes of business. It is seen that the disallowance of Rs.3,00,000/- has not been made with reference to any material or facts, but merely on a whim. We, therefore, hold that there is no basis for making this disallowance and accordingly, we delete the same.

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

Order pronounced on 25.10.2024 at Allahabad, U.P.

Sd/-

**[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER**

DATED: 25/10/2024

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Copy forwarded to:

1. Appellant -
2. Respondent -
3. CIT DR, ITAT,
4. CIT,
5. The CIT(A)

Sd/-

**[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER**

By order
Sr. P.S.