

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'C', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

**Before Shri Sanjay Garg, Judicial Member and
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1451/Kol/2024
Assessment Year: 2019-2020**

Integrated Fire Protection Pvt. Ltd. Appellant
60A, Pandit Madan Mohan Malabya Sarani,
Kolkata-700020.
(PAN: AAACI5559B)

vs.

DCIT, CPC, Bengaluru/ Respondent
ACIT, Circle-11(1), Kolkata

Appearances by:

Shri A. Biswas, CA appeared on behalf of the Appellant
Shri Dheeraj, Sr. DR appeared on behalf of the Respondent

Date of concluding the hearing: 04/12/2024

Date of pronouncing the order: 17/12/2024

आदेश / ORDER

Per Sanjay Garg, Judicial Member :

The captioned appeal has been preferred by the assessee against the order dated 16.05.2024 of the Ld. Commissioner of Income Tax, (Appeal), Addl/JCIT(A)-8, Delhi [hereinafter referred to as the "Ld. CIT(A)"] passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for AY 2019-20.

2. Though the assessee has raised as many as six grounds of appeal, the sole issue involved in this appeal is relating to disallowance of Rs.1,09,949/- on account of club expenses.

3. At the outset, the Ld. Counsel for the assessee has submitted that this issue has already been decided in favour of the assessee in the earlier assessment years by the Co-ordinate Bench of the Tribunal, wherein the Co-ordinate Bench of the Tribunal has held that the club expenses

incurred by the assessee were for the purpose of promoting of its business by entertaining its guests and thus, was an allowable expenditure.

4. We note that the identical issue has been decided by the Tribunal in the own case of the assessee for Assessment Year (in short 'AY') 2018-19 vide order dated 15.03.2022 passed in ITA No. 444/Kol/2021. The relevant part of the order of the Tribunal is reproduced as under:

“According to the Ld. AR Shri Anup Biswas, the assessee company is engaged into the manufacture of fire-fighting foam and is a regular income tax assessee. According to Ld. AR, till date the club expenses claimed by the assessee have not been disallowed by the department. According to the Ld. AR, the facts permeating in the earlier years as far as this issue is concerned is identical/similar and there was no occasion to change the stand of the department to disallow in this assessment year. According to Ld. AR, the CPC while processing the return had confronted the assessee to the limited question as to whether the disallowance of the club expenses may be made or not, for which the assessee replied that the club expenses were incurred for the purpose of business and, therefore, is an allowable expenditure as done in the earlier years. However, when the order u/s. 143(1)(a) of the Income-tax Act, 1961 (hereinafter referred to as the "Act") was passed to the astonishment of the assessee, it came to know that the club expenses to the tune of Rs. 1,52,323/- has been disallowed. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) who confirmed it by stating that the club expenses were of personal nature and not allowable u/s. 37(1) of the Act. And while doing so the Ld. CIT(A) took note of the fact that when the AO confronted the assessee on this issue, the assessee had submitted that these expenses were incurred for entertaining the guest of the assessee company for promoting the business. However, the Ld. CIT(A) did not accept the contention of the assessee and was pleased to confirm the order of the CPC. Aggrieved, the assessee is in appeal before this Tribunal.

4. Heard the rival submissions and gone through the facts and circumstances of the case. It is noted that the assessee is engaged into the manufacture of fire-fighting foam and is a regular income tax assessee. It is noted that the club expenses claimed by the assessee for the earlier years were never disallowed. According to me, even though 'res judicata' is not applicable to the income tax proceedings, but the rule of consistency has to be followed as held by the Hon'ble Supreme Court in the case of Radhasoami Satsang Vs CIT (193 ITR 321). Therefore, on this count itself this issue is tilted in favour of assessee. Anyway, it is also noted that the Hon'ble Supreme Court in the case of CIT Vs. United Glass Manufacturing Co. Ltd. 28 taxmann.com 429 (SC) as well as in a plethora of decisions by Hon'ble High Courts have held that the club expenses incurred by an assessee for the purpose of promoting its business by entertaining guest is an allowable expenditure u/s. 37 of the Act. Therefore, the CPC/Ld. CIT(A)'s action of ignoring the earlier claim of assessee on this issue and the department allowing the same as well as in the light of the judicial precedents cited (supra), I am inclined to allow the appeal of the assessee and direct deletion of addition of Rs. 1,52,323/-. Therefore, this ground of appeal of assessee is allowed.”

5. The Ld. DR could not point out any distinguishing facts for the year under consideration. Following rule of consistency, the disallowance made by the lower authorities is set aside. Appeal of the assessee stands allowed.

6. In the result, the appeal of the assessee stands allowed.

Order is pronounced in the open court on 17.12.2024.

Sd/-

[Rakesh Mishra]
लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 17.12.2024.

JD Sr. P.S

Copy of the order forwarded to:

1. **Appellant – Integrated Fire Protection Pvt. Ltd.**
2. **Respondent – DCIT, CPC, Bengaluru/ACIT, Circle-11(1), Kolkata**
3. **CIT(A), Addl/JCIT(A)-8, Delhi**
4. **Pr. CIT**
5. **CIT(DR),**

True Copy

By Order

Assistant Registrar, ITAT, Kolkata