

IN THE INCOME-TAX APPELLATE TRIBUNAL “SMC” BENCH,  
MUMBAI

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER  
&  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

ITA No. 3931/MUM/2024  
(A.Y. 2015-16)

Jayesh Pavitraray Tolia 720, Maker Chamber-V, Nariman Point, Mumbai, Maharashtra -400021	v/s. बनाम	ITO, Ward-17(2)(1), Mumbai Aaykar Bhavan, Mumbai, Maharashtra-400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ACCPT0366Q		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Pankaj Toprani
Respondent by :	Ms. Usha Gaikwad

Date of Hearing	17.10.2024
Date of Pronouncement	19.11.2024

**आदेश / ORDER**

**PER RENU JAUHRI [A.M.] :-**

This appeal is filed by the assessee against the order of the Learned Additional Commissioner of Income-tax (Appeals), Delhi-1 [hereinafter referred to as “Addl. CIT(A)”] dated 19.06.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2015-16.

2. The assessee has raised following grounds of appeal:

*“1) The Learned Commissioner of Income Tax (Appeal) has erred in confirming the disallowance made by the A.O. of Business Promotion u/s 37(1) of Rs. 7,43,137/-*

- 2) *The Learned Commissioner of Income Tax (Appeal) has erred in has erred in confirming the disallowance made by the A.O. of Gift amounting to Rs. 5,07,864/-u/s 37(1)*
- 3) *The Learned Commissioner of Income Tax (Appeal) has erred in has erred in confirming the disallowance made by the A.O. of 10% of Motor Car Expenses, Insurance and Depreciation amount to Rs. 72,083/- (i.c. 10% of Rs. 2,17,422/57,919/- 4,45,485/-) u/s 37(1)*
- 4) *The Learned Commissioner of Income Tax (Appeal) has erred in confirming the disallowance made by the A.O. of Office Expenditure (Repairs & Maintenance) of Rs. 2,65,000/- u/s 40A(3).*
- 5) *The Learned Commissioner of Income Tax (Appeal) has erred in confirming the disallowance made by the A.O. of Rs. 83,000/- of Repairs and Maintenance Expenses u/s 37(1)*
- 6) *The Learned Commissioner of Income Tax (Appeal) has erred in confirming the disallowance made by the A.O. of Rs. 2,52,000/- being 30% of Rs.8,40,000/- of Salary Expenses*
- 7) *The Learned Commissioner of Income Tax (Appeal) has erred in confirming the disallowance made by the A.O. of u/s 69C as unexplained expenditure of Rs. 6,984/-*
- 8) *The Learned Commissioner of Income Tax (Appeal) has erred in making disallowance made by the A.O. of Rs.17,560/- Interest paid u/s 36(1)(iii)*
- 9) *The Learned Commissioner of Income Tax (Appeal) has erred in making disallowance made by the A.O. of Rs.29,442/-being 20% of Telephone Expenses of Rs. 1,47,208/-u/s 37(1)*
- 10) *The Lower Authorities erred in not granting the opportunity of cross examination to the assessee despite his request for the same.*
- 11) *Both the Lower Authorities has denied the client natural justice by not providing the material they have relied on.*
- 12) *The order appealed against is bad in law and against the principal of natural justice.”*

3. The brief facts of the case are that the assessee, who is an intending agent for supply of pharmaceutical intermediates and dyes, filed his return declaring income of Rs. 7,91,840/- on 08.07.2016. The AO while framing the assessment u/s 143(3) made some disallowances out of various expenses as such business promotion, gifts, car expenses, repairs & maintenance etc. and finalized the assessment.

4. Aggrieved with this order dated 25.12.2017, the assessee filed an appeal on 10.01.2018. Ld. Addl. CIT(A) issued 4 notices in response to which except



one request for adjournment, no details/written submissions were filed by the assessee. Accordingly, the Ld. Addl. CIT(A) proceeded to decide the appeal ex parte after considering material available on record. Vide order dated 19.06.2024, assessee's appeal was dismissed by Ld. Addl. CIT(A).

Aggrieved with the order, the assessee is in appeal before us.

5. We have heard the rival submissions. The Ld. AR has reiterated that the assessee was denied natural justice as he was not provided the opportunity of furnishing requisite evidence and material in support of its claim.

6. It is seen that the appellate order has been passed without giving proper opportunity to the assessee to substantiate his contentions. We, therefore, deem it appropriate to restore the case to the Ld. Addl. CIT(A) for passing a fresh order on merits after giving due opportunity to the assessee. The assessee is also hereby directed to make requisite compliance before the Ld. Addl. CIT(A).

7. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 19.11.2024.

**Sd/-**

**BEENA PILLAI**

**(न्यायिक सदस्य/JUDICIAL MEMBER)**

**Sd/-**

**RENU JAUHRI**

**(लेखाकार सदस्य/ACCOUNTANT MEMBER)**

Place: मुंबई/Mumbai

दिनांक /Date 19.11.2024

अनिकेत सिंह राजपूत/ स्टेनो

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant



2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण/ ITAT, Bench,  
Mumbai.

