

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH, AGRA**

**Before Sh. Satbeer Singh Godara, Judicial Member
&**

Sh. M. Balaganesh, Accountant Member

ITA No. 09/Agr./2023 : Asstt. Year: 2014-15

Ramver Tyagi, M. S. Road, Alapur, Jaura, Morena, Madhya Pradesh-476221	Vs	CIT(A)/NFAC, Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AMXPT9354M		

Assessee by : Sh. Ramakant Gupta, AR

Revenue by : Sh. Shailener Shrivastava, Sr. DR

Date of Hearing: 05.02.2025

Date of Pronouncement: 05.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2014-15, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2022-23/1047483133(1) dated 17.11.2022, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.

3. The assessee pleads the following substantive grounds in the instant appeal:

"Ground No. 1 Disallowance of commission expenses of Rs.4,52,8816.00

The CIT(A) has erred in restricting disallowance of commission expenses to 20% of expenses on lump sum basis i.e. Rs.4,52,8816/- from entire commission expenses.

Ground No. 2 Adhoc disallowance of 10% of expenses for personal use confirmed by Hon'ble CIT(A) on adhoc basis. The CIT(A) has erred in allowing the adhoc disallowance of 10% of conveyance expenses of Rs.1,78,652/-, telephone expenses of Rs.18,925/-, travelling expenses of Rs.65,298/- and shop expenses of Rs.42,592/- stating to be personal expenses."

4. We have given our thoughtful consideration to the assessee's and Revenue's vehement rival contention against and in support of both the lower authorities' action disallowing 20% of the commission expenditure on lump sum basis and other miscellaneous items @ 10%, involving varying sums, respectively.

5. This assessee is admittedly engaged in retail business of English and country made liquor under the name & style of M/s Ramveer Tyagi wine contractor at Dholpur. The Assessing Officer framed a scrutiny assessment in his case dated 22.12.2016 *inter alia* disallowing entire commission expenses of Rs.22,64,079/- along with 10% of miscellaneous claim involving conveyance expenses/telephone, travelling and retail heads, respectively. Learned CIT(A) lower appellate discussion in turn has restricted the former entire commission expenditure

disallowance @20% only under the former head and upholds the latter rejection of miscellaneous expenditure in very terms.

6. Faced with this situation, the Revenue could hardly dispute that neither the learned lower authorities have discussed any past or subsequent trends in the assessee's business nor they referred to any comparable instance in the very activity before restricting the impugned expenditure @ 20% and 10%, respectively. Learned counsel was equally fair in not rebutting the clinching factual position emanating from the case file that the assessee has also not satisfactorily prove both these terms of expenditure by filing cogent supporting evidence. Be that as it may, we are considered in this factual backdrop a lump sum disallowance of 5% only in the instant case *qua* both these heads of commission and miscellaneous expenditure would be just and proper in the larger interest of justice with a rider that the same shall not be treated as a precedent. Necessary computation shall follow as per law.

7. No other ground or argument has been pressed before us.

8. This assessee's appeal is partly allowed in above terms.

Order Pronounced in the Open Court on 05/02/2025.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 05/02/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR