

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam "Division" Bench, Visakhapatnam

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri S. Balakrishnan, Accountant Member

आ.अपी.सं / **ITA No.408/Viz/2024**
(निर्धारण वर्ष / Assessment Year: 2014-15)

Welfare Resorts and Farms Private Limited SEETHAMADARA A.P PAN:AAACW4839L	Vs.	Asstt. Commissioner of Income Tax, Circle 5 (1) Visakhapatnam
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri G.V.N. Hari, Advocate	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of hearing:	07/05/2025	
घोषणा की तारीख/Pronouncement:	09/06/2025	

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal filed by the assessee is directed against the order dated 16/03/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2014-15.

2. There is a delay of 127 days in filing the present appeal. The assessee has filed a petition for condonation of delay which is also supported by an affidavit of the Managing Director

of the assessee company. The learned AR of the assessee has submitted that due to medical emergency, the M.D of the assessee company was under the medical treatment and advised to take complete bed rest for one month and thereafter, he was unable to move due to the injury in the knee ligament and hence, he remained confined to the bed for 3 more months as advised by the Doctors. Therefore, there is a delay of 127 days in filing the present appeal. Thus, the learned AR has submitted that the delay in filing the appeal is neither intentional nor deliberate but due to unavoidable circumstances which were beyond the control of the assessee and he has pleaded that the delay in filing the appeal may be condoned and the appeal of the assessee may be admitted for adjudication.

3. On the other hand, the learned DR has opposed to the condonation of delay and submitted that the signing of the papers does not require any physical movement or physical strain and therefore, the injury in the knee ligament cannot be a reason for the delay in filing the appeal.

4. We have considered the rival submission and carefully perused the cause of delay explained by the assessee. The assessee has explained the cause of delay in the petition for condonation of delay as under:

“PETITION FOR CONDONATION OF DELAY:

1. Appellant Respondent The order of the learned Commissioner of Income Tax (Appeals) was passed on 16.03.2024. As such, the appeal against this order ought to have been filed on or before 15.05.2024. However, the appeal could be filed only on 19.09.2024 resulting in a delay of 127 days in filing the appeal.

2. Sri Malla Vijaya Prasad is the Managing Director and is the authorized signatory of the appellant company. He fell down while playing shuttle on 04.05.2024 and sustained an injury to the knee. It was found that a ligament in the knee was torn for he which he was given treatment and was advised to take complete bed rest for one month. However, even after one month Sri M. Vijaya Prasad was having pain and still was unable to walk. Therefore, the doctor extended the treatment and bed rest for three more months. Sri Malla Vijaya Prasad was under bed rest and treatment during the period from 05.05.2024 to 0.5.09.2024 (copies of medical certificates are enclosed herewith). As such he was not in a position to attend to any other affairs during this period. Hence, the appeal could not be filed. As soon as the condition of Sri Malla Vijaya Prasad improved, necessary steps were taken and the appeal was filed on 19.09.2024.

3. Thus, the delay in filing the appeal was due to the reasons explained above which were beyond the control of the appellant. The delay was neither intentional nor deliberate. Therefore, the appellant prays the hon'ble ITAT to kindly condone the said delay of 127 days in filing the appeal and to pass appropriate orders in the interest of rendering substantial justice.”

5. The assessee has also filed a supporting affidavit as well as medical record to show that the assessee was undergoing the treatment of knee ligament injury and also advised for bed rest/rest for 4 months. Accordingly, we are satisfied that the reasons explained by the assessee are that the assessee was having a sufficient reason for the delay in filing the present appeal

and accordingly, the delay of 127 days in filing the appeal is condoned and the appeal is admitted for adjudication.

3. The assessee has raised the following grounds of appeal:

“1.The order of the Assessing Officer is contrary to the facts and also the law applicable to the facts of the case.

2. The Assessing Officer is not justified in making an adhoc disallowance of 10% of the tour package expenses amounting to Rs.,43,78,442/-.

3. Any other grounds that may be urged at the time of appeal hearing”.

4. The solitary issue arises in the appeal of the assessee is whether the learned CIT (A) is justified in sustaining the addition made by the Assessing Officer towards adhoc disallowances of the tour package expenses. The assessee is a company engaged in the business of tour packages. The assessee filed its return of income for the year under consideration declaring loss of Rs.12,31,464/-. The case of the assessee was selected for scrutiny and during the scrutiny assessment, the Assessing Officer has noted that the assessee has debited total expenses to the P&L Account to the tune of Rs.4,57,47,943/- under the head “Other expenses”. In response to the notice issued u/s 142(1) of the Act, the assessee filed break-up of said “other expenses” and stated that the assessee has incurred a sum of Rs.4,37,84,418/- towards tour package expenses which is part of the other expenses. In support of these expenses, the bills &

vouchers produced by the assessee were found to be self-made and accordingly, the Assessing Officer has made a disallowance of 10% of these expenses amounting to Rs.43,78,442/-.

5. The assessee challenged the action before the learned CIT (A), but could not succeed.

6. Before the Tribunal, the learned AR of the assessee has submitted that the assessee is in the business of providing tour packages to the customers. The assessee earned an income of Rs.5.18 crores during the year under consideration from the business of providing tour packages and incurred expenses of Rs.4,37,84,418/- towards providing the tour packages to the customers. The expenditure incurred was on account of cost of travelling, stay, food, guides etc., which are essential ingredients of the tour package business. The Assessing Officer has made an adhoc disallowance of 10% of the expenses on the ground that some of the supporting vouchers were self-made. The learned AR has submitted that majority of the expenses are towards the cost of tickets for travel and amount paid to the Hotels towards lodging and boarding and all these expenditure were supported by bills. Only a small portion of the expenditure is in the form of self-made vouchers. Thus, the learned AR has submitted that the adhoc disallowance by the Assessing Officer at 10% of the total expenditure is highly arbitrary and unjustified. He has pointed out that in the preceding year i.e. A.Y 2013-14, the tour expenses

were about 84.12% of the income whereas for the year under consideration, the tour package expenses constitute only 75% of the income which is less than the percentage to the income in comparison to the preceding year. Thus, he has submitted that the disallowance made by the Assessing Officer and confirmed by the learned CIT (A) is liable to be deleted.

7. On the other hand, the learned DR has submitted that only self-made vouchers were produced in support of the claim of the expenses and therefore, the Assessing Officer is justified in making a reasonable disallowance of 10% of the expenses. She has supported the orders of the authorities below.

8. We have considered the rival contentions as well as the relevant material available on record. The Assessing Officer has disallowed 10% of the tour package expenses in para 2 of the order as under:

2. During the year under consideration, out of total expenses debited to profit and loss account, the assessee showed a sum of Rs.4,57,47,943/- towards "Other Expenses". During the course of assessment proceedings the authorised representative submitted break up of such other expenses and stated that the assessee company, being a tour operator, has incurred a sum of Rs.4,37,84,418/- towards tour package expenses which is included in other expenses. In support of such tour package expenses, the assessee produced bills and vouchers. On a perusal of the evidences produced it is noticed some of the expenses are supported by self made vouchers. It is not possible to consider self made vouchers as authentic evidence. Therefore, keeping in view the assessee's business and the nature of expenses to be incurred the deem it fit and reasonable to disallow 10% of such tour package expenses which works out to Rs.43,78,442/-.

(Addition: Rs.43,78,442/-)

9. Thus, the reason for disallowance is self-made vouchers produced by the assessee which were considered as not possible to verify and authentic evidence in support of the claim of the expenses. The learned CIT (A) sustained the disallowance made by the Assessing Officer on the similar reasoning that the burden is on the assessee to prove with supporting evidence and the genuineness of the claim of the expenses. It is pertinent to note that undisputedly the onus is on the assessee to establish that the expenditure claimed by the assessee is incurred wholly and exclusively for the purpose of the business of the assessee. The Assessing Officer has made the disallowance on the ground that some of the vouchers in support of the expenses are self-made. Thus, to the extent of the claim of expenditure supported by proper vouchers and bills cannot be questioned and only to the extent of the claim which is supported by self-made vouchers could have been considered for making the disallowance. The Assessing Officer has not even segregated the amount of expenses duly supported by valid vouchers as well as the quantum of expenditure which is supported by self-made vouchers. Even otherwise, when majority of the expenses are incurred for travelling tickets and boarding & lodging and the payment of the same is not in dispute as well as supported by proper vouchers and bills, then to that extent the claim of the expenditure of the assessee is required to be segregated from the claim which is supported and substantiated only through self-made vouchers. Therefore, by considering the nature of the business activities of

the assessee, some of the expenditure is bound to be incurred in transit of the tour and having regard to the nature of the expenses claimed, the self-made vouchers cannot be outrightly rejected. In any case, the disallowance, if any in the absence of proper supporting vouchers can be made only in respect of the particular expenses not supported with proper vouchers. Accordingly, in the facts and circumstances of the case, we find that the Assessing Officer made an adhoc disallowance without conducting a proper inquiry and verification and segregating the expenses which are duly supported by the vouchers and not supported by proper vouchers, @10% which is on the higher side and therefore, to bring the dispute an end, we restrict the disallowance to 5% instead of 10% made by the Assessing Officer which will meet the end of justice. Accordingly, the Assessing Officer is directed to restrict a disallowance of 5% instead of 10%.

10. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on 9th June, 2025.

Sd/-

Sd/-

(S. BALAKRISHNAN) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE-PRESIDENT
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Hyderabad, dated 9th June, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Welfare Resorts & Farms (P) Ltd, Flat No.302, Bharat Apartments, Behind Eenadu, Seethammadhara, Visakhapatnam
2	ACIT, Circle 5(1) Visakhapatnam, Income Tax Office, Pratyakshar Bhavan, MVP Double Road, Visakhapatnam
3	Pr. CIT – Visakhapatnam
4	DR, ITAT Visakhapatnam Bench
5	Guard File

By Order