IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: E : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.5141/Del/2024
Assessment Year: 2017-18

ACIT, Circle-16(1), Delhi.	Vs	M/s Mankind Pharma Ltd. (earlier known as M/s Magnet Labs Pvt. Ltd.), 208, Okhla Industrial Estate Phase-3, Delhi – 110 020. PAN: AACCM1861C

ITA No.4654/Del/2024
Assessment Year: 2017-18

M/s Mankind Pharma Ltd. (earlier known as M/s Magnet Labs Pvt. Ltd.), 208, Okhla Industrial Estate Phase-3, Delhi – 110 020. PAN: AACCM1861C	Vs.	ACIT, Circle-16(1), Delhi
(Appellant)		(Respondent)

Assessee by	:	Shri Gaurav Jain, Advocate & Shri Rahul Prabhakar, Advocate
Revenue by	:	Shri Vipul Kashyap, Sr. DR
Date of Hearing	:	05.08.2025
Date of Pronouncement	:	27.08.2025

ORDER

PER ANUBHAV SHARMA, JM:

These are cross appeals preferred by the Revenue and the assessee against the order dated 08.08.2024 of the Commissioner of Income-tax (Appeals)-30,

New Delhi (hereinafter referred to as the ld. First Appellate Authority or 'the Ld. FAA' for short) in Appeals No.6/10351/2019-20 arising out of the appeal before it against the order dated 19.12.2019 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Circle-16(1), Delhi (hereinafter referred to as the Ld. AO).

2. Heard and perused the record. The facts in brief are that the assessee company is engaged in the business of trading in pharmaceutical products primarily medicines which involves purchase of medicines/pharmaceutical products from its parent company Mankind Pharma Ltd. and selling the same to chemists, pharmacies, stockist of medicines across country. Assessee claims that the said business involves door to door marketing at doorsteps of each chemist and/or doctor through Medical Representatives ('MRs'), who keep on travelling for the said purpose. During the year under consideration, the assessee incurred total expense of Rs. 18,73,43,027/-. The case of assesse is that this amount was spent towards the aforesaid travelling and conveyance, which included Rs.18,19,13,422/- towards reimbursement of claims raised by the MRs, constituting more than 97% of the total travelling and conveyance expenditure. Out of the aforesaid total expenditure, a portion of the expenses was directly incurred by the assessee company through payments made to vendors such as taxi operators, hotels, etc., duly supported by bills raised by the vendors. However, the predominant portion of the expenditure comprised

reimbursements made to employees in accordance with the company's duly approved policy and subject to approval of claim by higher management.

3. In the impugned assessment the Assessing Officer disallowed approximately 80% of the total expenses, amounting to Rs. 14,98,74,422/- out Rs. 18,73,43,027/-, on the basis that the supporting documentation was provided only on a sample basis. The AO concluded that the reimbursements made to employees lacked proper substantiation in the absence of underlying bills or vouchers corresponding to the actual underlying expenditures incurred. The assessee filed the appeal before the CIT(A) and ld. AR has submitted that grounds raised were supported by detailed submissions and comprehensive documentation. This included monthly and individual employee reimbursement reports (accompanied by the respective employees' Form 16s), all travel and conveyance-related bills and vouchers, and the corresponding ledger entries in the appellant's books collectively demonstrating full transparency and procedural compliance. The learned CIT(A), vide impugned order dated 08.08.2024, concluded the appellate proceedings by reducing the ad-hoc disallowance from 80% to 20% of the total expenditure. The CIT(A) had deleted the said disallowance holding as follows;

> "8.4 *Upon reviewing the appellant's submissions and the policy framework for reimbursements, it is clear that the policy is based on commercial expediency and aims to simplify the process of reimbursing employees for legitimate business expenses. Further it goes without saying that travelling expenses of MR are integral to this line of business. The policy has been designed to reduce the administrative burden of collecting and verifying*

every minor expense voucher, which is impractical given the scale of operations.

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8.6 *The AO's reliance on the absence of complete supporting vouchers as the sole reason for the disallowance overlooks the reasonableness of the policy and the fact that it has been consistently followed in previous years without dispute. The AO's ad-hoc disallowance of 80% appears to be harsh, especially when the appellant has provided a reasonably substantial sample of vouchers and supporting documents and also explained the existence and working of an Internal control mechanism. Here it would be appropriate to refer the decision of Apex court in the case of CIT vs Larsen & Tourbo Ltd. (313 ITR 1) wherein the Hon'ble Court while dealing with the question, whether the assessee employer was under statutory obligation to collect evidence to show that its employees had actually utilized the amount(s) paid towards leave travel concession/ conveyance allowance. While deciding the matter in the favour of assessee-employer the Hon'ble court ruled that in the absence of any specific requirement under the law or CBDT circular in this regard assessee-employer is under no statutory obligation to collect the evidence to show that its employees had actually utilized the amounts paid towards leave travel concession/conveyance allowance. The relevant extract of the decision is reproduced as under:*

"2. It may be noted that the beneficiary of exemption under section 10(5) is an individual employee. There is no circular of Central Board of Direct Taxes (CBDT) requiring the employer under section 192 to collect and examine the supporting evidence to the declaration to be submitted by an employee(s).

"Though the decision is in relation with exemption under section 10(5) of the act, however the ratio of same in somewhat limited perspective cannot be overlooked in present case.

……..

8.9 In the case of Hero MotoCorp Ltd. vs. ACIT [156 TTJ 139 {Delhi - Trib.}], the Tribunal held that reasonable per diem allowances paid to employees without the production of vouchers could not be disallowed when such allowances were part of a consistent company policy. The decision directly applies to the present case, where the appellant's policy and implementation have been consistent and reasonable. However, the fact that a significant percentage of claims were reduced after verification suggests that the risk of manipulation cannot be completely ruled out.

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8.11 In view of the detailed analysis, it is clear that the AO's disallowance of 80% of the travelling and conveyance expenses is not justified. The appellant's policy is reasonable, consistent, and backed by a robust system of checks and balances"

3.1 Accordingly these appeals are filed and the respective grounds are reproduced below:-

ITA No.5141/Del/2024 (Revenue's Appeal)

"(i). That on the facts and circumstances of the case, the Ld. CIT(A) has erred in restricting the disallowance made u/s 37(1) of the Act to 20 % against 80% made by the AO in Travelling and Conveyance Expenses.

(ii) That on the facts and circumstances of the case, the Ld. CIT(A) has erred in restricting the disallowances despite noticing that the assessee has produced only sample vouchers and supporting documents during assessment and appellate proceedings.

(iii) That on the facts and circumstances of the case, the Ld. CIT(A) has erred in restricting the disallowances without appreciating that the assessee has not demonstrated at any stage that the expenditure in the nature of reimbursement of travelling and conveyance expenditure to MRs and employees were incurred wholly and exclusively for the business of the assessee.

(iv) That on the facts and circumstances of the case, the Ld. CIT(A) has erred in merely relying upon the internal control mechanism of the assessee without considering the genuineness, commercial expediency and reasonability of the expenditure claimed to have been incurred.

(v) That the appellant craves leave to add, amend, alter or forgo any grounds(s) of appeal either before or at the time of hearing of the appeal."

ITA No.4654/Del/2024 (Assessee's appeal)

"1. That the Ld. CIT(A) erred on facts and in law, in not deleting the entire disallowance of Rs. 14,98,74,721/- being 80% of the travelling and conveyance expenses, made by the Assessing Officer ('AO') in the assessment order passed under section 143(3) of the Income-tax Act, 1961 ('the Act'), and in restricting the said disallowance to Rs.3,74,68,605/-, being 20% of the travelling and conveyance expenses on the ground of probable manipulation/ exaggerated claims for reimbursement made by the

employee in their expense declaration forms even after observing that the appellant's reimbursement policy is reasonable, consistent and backed by a robust system of checks and balances.

1.1. That the Ld. CIT(A) erred on facts and in law, in observing that the expenses can be disallowed on the basis of estimation and thereby confirming the disallowance made by the AO to the extent of 20% of total travelling and conveyance expenses incurred during the year.

1.2. That the Ld. CIT(A) erred on facts and in law, in upholding the theory of disallowance on ad-hoc basis/on the basis of estimation, merely on hypothesis of probable excess claims by the employees, dehors any evidence(s)/specific vouchers pointing to that effect.

2. Without prejudice to the aforementioned grounds, the Ld. CIT(A) erred in facts and in law by upholding the disallowance to the extent of 20% by failing to appreciate that, even if it is assumed, without admission, excess claim was raised by the employees, such excess reimbursement was allowable as business deduction in the hands of company under section 37(1) of the Act.

The appellant craves leave to add, alter, amend, or withdraw any ground or grounds of appeal at any time before or during the course of hearing of the appeal."

4. On hearing both the sides we find that primarily the ld. AR and ld. DR, both, have relied their respective cases as alleged and defended before ld. Tax authorities below. Thus grounds of both the sides can be discussed together and determined with convenience. Now what can be seen is that the AO disallowed 80% of the total Travelling & Conveyance Expenditure on the ground that the aforesaid reimbursements to employee(s) were not backed by actual bill/voucher, of the underlying expenditure incurred by the employee. Ld. AR has submitted that reimbursements for Traveling & Conveyance Expenditure, incurred by employees was in accordance with the company's policy and

supported by employee declarations, so same should be allowed as a business deduction.

5. In this context we are of the view that to consider the eligibility of any expenditure, the business model of assesse, product range, marketing and selling functions needs to be understood well and then only a conclusive finding can be given about eligibility of claiming any expenditure to be for business purposes. Here in the case of assesse, such understating seems to be missing on the part of tax authorities below. What we find on examination of the business model of the Appellant company is that in order to secure sales, MRs are allocated a dedicated state ('headquarter') within which they generally travel to give presentation on the pharmaceutical products to various chemist/pharmacist and secure orders. In order to maximise the sales, they have to make inter-state visits where sometimes they have to stay for multiple days. During the inter-state stay they incur expenses on accommodation besides the travelling expenses, and other incidental expenses. The areas they visit may not even be having regulated and organized hotel or travelling facilities. So the employees may have to go for some unorganized vendors and avail these facilities which may not be properly vouched or invoiced.

6. Ld. AR has cited before us a policy to compensate/reimburse the employee for the aforesaid expenses incurred by them while travelling for the purpose of

business. The excerpts of the policy are as provided to bench is reproduced below;

- As regards conveyance expenses or travelling allowance (TA'), the appellant had fixed the reimbursement as per fixed rate per kilometer (Rs.2.80) notwithstanding the mode of travel by the employee i.e. own vehicle / taxi / train / airplane etc.

- For the purposes of covering other travel expenditure like boarding / lodging / Meal etc,; the appellant had fixed a ceiling limit by way of providing daily allowance(DA) to the employee, which could be claimed depending upon the designation and place of travel in the following manner:

- A screenshot of the conveyance expense policy as approved by the administration department of the Appellant company is reproduced as below:-

D.A. FOR 2016-17 FOR ALL STATE

DESIGNATION	H.Q.	EX.	OUT
FM/SFM/TE/STE/TM/STM	255	255	400
DM	400	400	1050
AM / SAM	490	490	1300
DRM / RM / SRM	550	550	1725
DZM / ZM / SZM	700	1260	2650
DDSM / DSM / SDSM	800	1480	3700
Dy.SM / SM	850	1730	4300
DNSM / NSM	950	2050	5400
Dy.MSM / MSM	1110	2425	6050
ASSTT.GM-SALES	1270	2800	6700
Dy.GM-SALES	1330	2875	6850
GM-SALES	1470	3250	7200

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7. As per the above policy, it can be seen that the reimbursement of DA was made as per policy approved by the management of the Appellant company, where the reimbursement limits are fixed depending upon the designation of the employee, as also place of travel. If the place of travel was outside the city or state, the reimbursement eligibility varied. Ld. AR has pointed out that further, to keep a check on the reimbursement made by the employee, a robust system of verifying the claims on multiple stages (once by Manager of employee and then by Admin department) was also in place, where the claims are scrutinized in detail and excess claims were reduced to appropriate amount before making the payment of reimbursements.

8. Ld. AR has submitted that the above policy was put in place on the ground of commercial expediency to (i) avoid practice of collecting vouchers for each petty expenditure like meals/food etc. that may have been incurred by the employee during travel; (ii) avoid procedure of obtaining invoice in case of travelling by the employee by his own vehicle, (iii) avoid discretion to choose mode of travel etc. Further, the aforesaid exercise of reimbursement was voluminous involving passing of multiple claims of more than 1200 employee in a month, who incurred multiple expenses on daily basis. To collect, verify and retain each and every bill/voucher for processing the reimbursement (especially in cases where the expenses does not result in any bill/voucher for

example auto rickshaw travel) would have also been a cumbersome and difficult task to achieve. It was also pointed out that the employee's reimbursement forms, bills and vouchers as maintained by the company and accounting treatment of the same were duly scrutinised by its two Statutory Auditors, including one of the Big 4 Auditing firm Deloitte Haskin & Sells LLP, without any adverse remarks. Ld. AR has submitted that the aforesaid facts were even submitted before AO during assessment proceedings and reliance was placed on relevant reply dated 7th November 2019 filed in the course of assessment and made available at page no. 54 of the APB. Relevant extract for reference is also extracted below;

> *"Travelling & Conveyance - the business of the assessee is of marketing of medicines. The Company has coverage of nearly half of the country where the C& F agents of the Company are located. The marketing representatives (MR's) of the Company procure orders from all retailers and stockiest by meeting them physically. It is stated that each C & F agent caters to an area within a radius of 500 kms. approx. therefore, each MR has to travel across that area to fetch orders. Further, the MR's also personally visit the doctors in that area to apprise them of the products of the Company and also to give presentations regarding new launches of medicines. Therefore, the Company has to incur a substantial amount of expense under this head.* ***All the payments are made to employees of the Company on submission of bills which are approved by their controlling managers. All the payments are made by way of direct bank credit to the employees of the Company or by account payee cheques.****All the expenses are properly vouched and underwent scrutiny by two joint statutory auditors, namely M/s. Deloitte Haskins & Sells LLP and M/s Bhagi Bhardwaj Gaur & Co. As desired the complete ledger account of the said expense is enclosed by way of separate annexure".*

9. One thing that strikes us, at outset, is that the aforesaid policy of making reimbursement of Travelling & Conveyance Expenditure has been consistently followed by the appellant for the past several years which has always been

accepted by the AO in the completed assessment for earlier year(s) as also in the succeeding year(s). In this connection, the copy of assessment order passed under section 143(3) for A.Y. 2013-14, 2015-16, 2018-19 & 2020-21 have been placed before us at page no. 651 to 661 of the APB. The settled position of law is that the Revenue should not dispute the consistent treatment followed by the assesse. Reliance can be placed on following decisions relied by the ld. AR;

i. CIT vs. Excel Industries Ltd. [358 ITR 295 (SC)];
ii. Radhasoami Satsang vs. CIT [193 ITR 321 (SC)];
iii. CIT Vs. Kotak Securities Ltd. [2016] 67 taxmann.com 356 (SC);
iv. CIT Vs. Neo Polypack (P) Ltd., 245 ITR 492 (Delhi);
v. CIT Vs. Alstom Projects India Ltd., 394 ITR 141 (Bombay);

10. Then we are of considered view that given the nature of expenses incurred by the employees, at the time of their travel, to procure business, it is not prudent to expect them to make every claim on the basis of sound invoices or bills. There is no reason to assume employees would be making incorrect claims of such expenses without actually travelling and adding to the business. Rather presumption should be that self verified vouchers of employees are genuine as false claim can lead to disciplinary consequences. So in the given facts and circumstances, the assertion of ld. Tax authorities and the ld. DR, too, on absence of evidence in form of bills or invoices, is too far stretched. As the case of assesse has made the payment of employee reimbursement claim on the

basis of monthly employee declarations and accordingly, the expense are claimed. Therefore, once it is established that the payment are actually made for the purpose of business, in a way that employees encouraged sales, the same are eligible for deduction under section 37 of the Act and the Appellant is under no obligation to collect bills/vouchers from employee before making the payment.

11. In this regard has been rightly drawn by ld. AR from the decision of Hon'ble Supreme Court in the case of ***CIT vs. Larsen & Toubro Ltd. [313 ITR 1 (SC)]*** wherein the Hon'ble Court while dealing with the question that whether the assessee-employer was under statutory obligation to collect evidence to show that its employees had actually utilized the amount(s) paid towards leave travel concession/conveyance allowance. While deciding the matter in the favour of assessee-employer the Hon'ble court ruled that in the absence of any specific requirement under the law or CBDT circular in this regard assessee-employer is under no statutory obligation to collect the evidence to show that its employees had actually utilized the amounts paid towards leave travel concession/conveyance allowance. The relevant extract of the decision is reproduced as under:

> "***2. It may be noted that the beneficiary of exemption under section 10(5) is an individual employee. There is no circular of Central Board of Direct Taxes (CBDT) requiring the employer under section 192 to collect and examine the supporting evidence to the declaration to be submitted by an employee(s).***"

12. Reliance is also placed on the judgement of Hon'ble High Court of Gujarat in the case of ***CIT vs. Oil and Natural Gas Corporation Ltd. [277 Taxman 284 (Gujarat)]*** wherein it was held that Self-certification by employees that they had incurred expenditure towards uniform was sufficient for assessee employer not to deduct TDS on reimbursement made by it to said employees towards such expenditure incurred by them. Therefore upholding that there is no bar on claiming the expense or deducting TDS when reimbursement are paid on the basis of employee certification. The relevant extract of the decision is reproduced as under:

> *"**23. In terms of the above Circular No. 15 dated 8-5-1969, for the purpose of calculation of tax deductible at source under section 192, self-certification on the part of the employee that the conveyance was owned by him and being used by him for the purposes of employment was adequate.** The present case relates to uniform allowance, which as noticed earlier is exempt from tax under section 10(14)(i) of the Act read with rule 2BB(1)(f) of the rules to the extent to which such expenses are actually incurred for that purpose. Under the Act, the liability to the employer is to deduct tax at source to the extent of the taxable income of the employee. If any part of such income is exempt, there is no liability to deduct tax at source from such income. Since liability to pay tax under the Act is of the individual employee and the liability on the part of the employer is only to deduct tax at source, Circular No. 15 dated 8-5-1969 provides that self-certification on the part of the employee is sufficient for the disbursing officer for calculation of the tax deductible at source. While the said circular relates to conveyances, the underlying principle can well be applied even in the case of uniform allowance. **Therefore, if an employee gives a certificate certifying that he had incurred certain expenditure towards uniforms and maintenance thereof, insofar as the disbursing officer is concerned, that would be adequate while calculating the tax deductible at source. If the Assessing Officer has any doubt about the claim made by any individual employee, he can always take upon the issue during the course of assessment proceedings of such employee, inasmuch as, as rightly submitted by the learned counsel for the respondent, self-certification is good enough for the employer not to deduct tax at source, it does not grant any immunity to the employee if the claim is incorrect.** As held by this court in Oil & Natural Gas Corpn. Ltd.*

(supra), whether an employee actually incurs such amount for official purposes is relevant for assessment of such employee because the exemption operates in his terms and conditions of availing such exemption that is to be fulfilled by him. Whether the employee is able to substantiate his claim to exemption has no bearing on the estimate of income liable to tax to be made by the employer. Under the circumstances, there is no legal infirmity in the impugned order passed by the Tribunal in placing reliance upon the above circular for holding that ***self-certification on the part of the employees was adequate for the assessee not to deduct tax from the reimbursement allowance towards expenditure incurred for uniforms.***"

13. Same ratio was upheld by the co-ordinate bench at Delhi in the matter of ***Hero MotoCorp Ltd. vs. ACIT [156 TTJ 139 (Delhi - Trib.)]*** wherein it was held that allowance fixed by assessee-company for foreign travel of employees and directors, as per grade was reasonable, but all vouchers could not be produced due to practical difficulties in submitting bills of petty expenses, amount could not be disallowed. The relevant extract of the decision is as under:

"51.15 The assessing officer in this case has not doubted the fact that employees/ directors of the company travelled abroad and the fact that they have incurred incidental expenses in foreign currency. ***The reason for disallowance is that employees have not furnished to the assessee evidence in support of the fact that they have incurred conveyance, boarding and lodging expenses etc. When reasonable amount of daily allowance is fixed as per the rules of the company and when these D.A. rules are followed by the assessee, in our view, the incurring of expenditure by the employees is not to be doubted.*** *Even in cases where officers of the government of India travel abroad, daily allowance is given and vouchers for such expenditure are not insisted because of practical difficulties in submitting bills/ vouchers of petty expenses. In such circumstances, what is to be examined by the assessing officer is the reasonableness of the expenses incurred as compared to the general rates of expenses and allow the same. The assessee submits that the fixed per diem allowance payable to employees depending on the grade is reasonable. When such rates are reasonable the question of disallowance does not arise unless the revenue demonstrates that the rates are excessive. In this case it is not that the expenses are not incurred for the stated purpose nor is it that the rates are unreasonable. The disallowance in question in our view on the sole ground that vouchers are not produced by*

the employees cannot be sustained. In the result this ground of the assessee is allowed."

14. Even otherwise ld. AR has demonstrated before us on the basis of monthly & daily expense report submitted by employee/MRs, in cases where the total reimbursement for the month of October 2016 and February, 2017 exceeds Rs. 25,000/- , copy of which is placed on sample basis at page 551 to 603 of the APB that expenses very reasonably verified as per the policy. As for example, in the case of Sh. Gurram Sudarsan, District Manager, headquartered at Chittoor, Andhra Pradesh shows that he has paid travelling and conveyance reimbursement of Rs. 40,773/- (Rs. 27,923 + Rs. 12,850) in the month of February 2017. During the month, Mr. Sudarshan travelled 9973 km (including the rail distance for inter-state moment for Chittoor to Delhi and vice-versa) and as per company's policy was granted reimbursement at the rate of Rs. 2.80 per KM leading to total travelling reimbursement of Rs. 27,923/-. Relevant expense report is placed at page no. 557 to 564 of APB. Further, since Mr. Sudarshan is district manager and as per the conveyance reimbursement policy (reproduced above at para 9) he is entitled to conveyance reimbursement of Rs. 400/- per day (for intra-city movement) and Rs. 1,050/- per day for inter-state movement. During the month the employee was granted intra-state conveyance reimbursement for 19 days and inter-state reimbursement for 5 days aggregating to Rs. 12,850/- [Rs. 400 X 19 + Rs 1,050 X 5]. Therefore, it can be said that the travelling and conveyance reimbursement amount depends upon the travelling

of the employee/MR, the more travelling they do on behalf of the company more will be the amount of reimbursement. This can be proved by the fact that Mr. Sudarshan was paid travelling and conveyance reimbursement of Rs. 22,941/- during the month of October, 2016 as against the reimbursement of 40,773/- in the month of February, 2017, as discussed above. Above proves that, the employee reimbursement claims were not mere formality but were subjected to checks and balances placed in the system by the management of the Appellant company, where the excess claims made by the employee were appropriately reduced. In the light of the above it can be said that AO failed to understand the factual aspects of policy of the appellant relating to the "Travelling and Conveyance" expense which leads to the disallowance of 80 percent of the total expenditure on the estimation basis. The appellant has explained in detail *supra* the commercial expediency behind introducing a policy of reimbursement of travel claims on the basis of self-declaration of employees, subject to internal approvals, checks and balances.

15. It is a settled position in law that the commercial expediency behind an expenditure incurred for the purpose of business has to be seen from the perspective of businessman and cannot be dictated by the AO. To this we may add that this decision making involves the appropriate method of verifying the expenditure, specially when it is a case of reimbursements to employees on the basis of actuals.

16. Even otherwise, ad-hoc disallowance is not permissible in law. In facts of the present case, it is not in dispute that the appellant has to incur Travelling & Conveyance Expenditure by way of reimbursement to medical representatives, which is an important aspect of the appellant business of trading in medical products. The employment of such employee is also no in dispute inasmuch as salary paid to such employee is accepted and allowed as business deduction. Thus, the factum of the business practice of incurring such Travelling & Conveyance Expenditure stands accepted even by the AO more so by accepting part expenditure and resorting to *ad-hoc* disallowance. The judicial decisions have consistently held that, the AO is not empowered to make ad hoc disallowance of expenditure. In the present case, every expenditure was supported by a declaration of an employee coupled with the inherent system of approvals/checks and balances. The books of accounts of the appellant are also audited and no adverse qua maintenance of books of accounts and following the aforesaid practice has been reported by the auditors. No adverse remarks in the practice of maintaining books of accounts have even been pointed out by the AO in the impugned order. In such circumstances, the *adhoc* disallowance out of total expenditure could not be made by AO. Reliance, in this regard, is rightly placed by ld. AR on the catena of decisions including **Dhakeshwari Cotton Mills Ltd. vs. CIT: 26 ITR 775 (SC)**

17. In view of the above we are of the view that AO had erred in making ad-hoc disallowance of 80 percent of the total travelling and conveyance expenses of Rs. 18,73,43,027/-, on the ground that same were not supported by bills/voucher, failing to appreciate that the same were backed by self – certificates/ voucher of employees, which were passed after through examination/ verification / approval of multiple layers as per company standard policy. Consequently the conclusion of learned CIT(A) in restricting 20% ad-hoc disallowance, is not sustainable. The Ld. CIT(A)'s own finding at page 22 confirms that these expenses were examined and no specific defects were identified. Jurisprudence is clear: ad-hoc disallowance based on general suspicion or guesswork without pinpointing deficiencies is legally impermissible. The learned CIT(A) has also erred in concluding that certain employee reimbursement claims were reduced by higher management, implying possible excess claims. However, any such excess initially claimed cannot render the employer liable for alleged personal or non-business expenditure. There is force in the contention of ld. AR, that even assuming without admitting, that employees were reimbursed higher than the actual expenditure, even then the higher re-imbursement by assessee employer on Bonafide basis constitute an expenditure incurred for the purpose of business in hands of the assessee company and cannot be considered personal or non-business expenditure, warranting disallowance. Reliance in this regard is also righlty placed on the decision of Hon'ble High Court of Gujarat in the case of Sayaji

Iron & Engg. Co. vs. CIT 1253 ITR 749 (Gujarat)] wherein the ad-hoc disallowance made by the AO with regard to personal benefit accruing to directors from use of employer's vehicle was deleted by the Hon'ble Court by stating that a private limited company by its very nature cannot have any 'personal' or non-business use' to attract the disallowance of expenses, observing under;

> 9. "*In our opinion, as the directors of the assessee were entitled to use the vehicles of the assessee-company for their personal use as per the terms and conditions on which they were appointed, it was not proper on the part of the Assessing Officer to disallow 1/6th of the expenditure incurred by the assessee on maintenance of its vehicles. Section 309 of the Companies Act, 1956 provides the modality for determining the remuneration payable to directors, including any managing or full-time director. Such remuneration is payable either as stated in the articles of association of the company or in accordance with the resolution or if provided by articles, by a special resolution which might be passed by the company in the general meeting. This payment of remuneration is subject to overall limits of managerial remuneration laid down in section 198 of the Act. What is more material for the purpose of the present controversy is Explanation to section 198 of the Companies Act which permits and provides that 'remuneration' shall include (a) any expenditure incurred in providing any rent free accommodation, etc., (b) any expenditure incurred in providing any other benefit or amenity free of charge or at a concessional rate, (c) any expenditure which would have been incurred by the director but for such expenditure having been incurred by the company, (d) any expenditure incurred by the company for the purpose of any insurance on the life, etc. Therefore, it is clear that the expenditure incurred by the assessee-company on maintenance of vehicles which were available to the directors for their personal use would fall within the meaning of 'remuneration' as defined in the Explanation to section 198 of the Companies Act, and once such remuneration is fixed as provided in section 309 of the Companies Act, it was not possible to state that the assessee-company incurred an expenditure for the personal use of the directors, i.e., even if there was any personal use by the directors, the same was as per the terms and conditions of service and insofar as the assessee- company was concerned, it was a business expenditure and not disallowable as such".*
>
> **…….**

> 9.2 "*It is pertinent to note that except for the assessment year in question, for no other assessment year the expenditure in question has been disallowed. We see no reason for the Tribunal to take a different view for this assessment year, especially when it is an undisputed fact that in the past all such disallowances were deleted by the Tribunal and the said decision was not challenged".*

18. As a consequence of aforesaid discussion we are of firm view that grounds in appeal of assesse deserves to be sustained while of revenue to be rejected. Accordingly, the appeal of assesse is allowed and of revenue dismissed. Impugned addition is deleted.

Order pronounced in the open court on 27.08.2025.

Sd/-	Sd/-
(S. RIFAUR RAHMAN) ACCOUNTANT MEMBER	(ANUBHAV SHARMA) JUDICIAL MEMBER

Dated: 27th sAugust, 2025.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi