

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “G” BENCH: NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.4044/Del/2024**

**[Assessment Year : 2015-16]**

Mrs. Sharmila Pundir, A-96, Sector-51, Gautam Budh Nagar, Noida, Uttar Pradesh-201301. <b>PAN-AQFPP0356B</b>	vs	ACIT, Circle-3, Noida
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri K.R.Manjani, Adv.& Shri Tarun Aswani, Adv.	
<b>Respondent by</b>	Shri Dheraj Kumar Jaiswal, Sr.DR	
<b>Date of Hearing</b>	03.07.2025	
<b>Date of Pronouncement</b>	26.09.2025	

**ORDER**

**PER MANISH AGARWAL, AM :**

The present appeal is filed by assessee against the order of Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld. CIT(A)”] in Appeal No. NFAC/2014-15/10108556 u/s 250 of the Income Tax Act, 1961 [“the Act”] dated 04.07.2024 arising out of the assessment order dated 26.12.2017 passed u/s 143(3) of the Act for Assessment Year 2015-16.

2. Brief facts of the case are that assessee is an individual and e-filed her return of income on 14.10.2015, declaring total income of INR 59,45,390/-. The said return was revised on 14.01.2016 at an

income of INR 68,74,460/-. The case was selected for scrutiny and after considering the submissions made, assessment was completed u/s 143(3) at total income of INR 1,78,71,700/- vide order dated 26.12.2017 after making various additions/disallowances.

3. Against the said order, assessee preferred an appeal before Ld. CIT(A), who partly allowed the appeal of the assessee and confirmed certain disallowances made by the AO.

4. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

*“The Ld. CIT(A) has erred on facts as well as in law in sustaining the following additions*

- (i) Rs.2,70,478/- there are no details, on wrong plea that in vouchers for expenses under the title of repair and maintenance.*
- (ii) The amount of Rs. 2,42,519/- towards interest as ST and wrongly taken by the CIT(A) as penalty therefore needs to be allowed.*
- (iii) The amount of Rs. 6,50,000/- is for purchase of motorcycle payment of which is through banking channel and vouchers are available for this purchase. Consequently non-allowability of the expenditure is incorrect and needs to be deleted.*
- (iv) Not allowing the additional grounds about allowability of loss in respect of property.”*

5. **Ground of appeal No.(i)** raised by the assessee is with respect to confirmation of disallowance of INR 2,70,478/- made out of repair and maintenance expenses claimed.

6. Heard the contentions of both parties and perused the material available on record. The AO made disallowance of 30% of expenses

claimed under the head “repair and maintenance” of INR 7,85,105/- by observing that assessee has not furnished details and justification of the nature of the expenses. The ld. CIT(A) confirmed the disallowance by observing that expenses could not be verified in absence of proper vouchers and certain payments were made in cash also. On perusal of the facts and nature of business of the assessee company, engaged in the business of electrical goods under the name and style of “Shiva Electricals” and the copy of the ledger account of repair and maintenance filed before us, it is seen that assessee has paid petty amounts on regular basis for repair and maintenance, repairing of computer, machinery tools and vehicles repairs. Total expenses of INR 6,53,883/- were claimed on vehicles running and maintenance where the payments were made mostly for the petrol/diesel besides some payments towards repairing. All the payments were made in cash. Looking to these facts, possibility of personal use cannot be ignored and also verification of these expenses cannot be done in absence of bills and vouchers. Under these circumstances, in our considered opinion, disallowance @ 10 % of the expenses claimed would be fair and reasonable as against 30% disallowance made by the lower authorities which appears to be very high in the present facts of the case. Accordingly, we direct the AO to restrict the disallowance @ 10% of the expenses claimed. Ground of appeal No.(i) raised by the assessee is thus partly allowed.

7. **Ground of appeal No.(ii)** raised by the assessee is regarding disallowance of INR 2,42,519/- being interest paid on service tax for prior period.

8. The AO disallowed the same by holding the same as penal in nature which was confirmed by Ld.CIT(A).

9. Heard the contentions of both parties and perused the material available on record. From the perusal of ledger account of interest of tax placed before us in the paper book, it is seen that a sum of INR 1,89,271/- was paid as interest on delayed payment of service tax of INR 4,17,673/-. A copy of challan is also filed by the assessee. Besides this, a sum of INR 53,248/- was further paid which was claimed as interest.

10. From the perusal of the narration of the entry of INR 1,89,271/-, it appears that it is the interest on delayed payment of service tax however, the other payment of INR 53,248/- no supporting material is placed before us to establish that such payment was on account of delayed payment of interest and it is not penal in nature. In view of these facts, we direct the AO to delete the addition of INR 1,89,271/- being interest paid on delayed payment of service tax and balance disallowance of INR 53,248/- is hereby confirmed. Accordingly, ground of appeal No.2 raised by the assessee is hereby, partly allowed.

11. **Ground of appeal No.(iii)** is regarding disallowance of INR 6.50 Lakhs claimed as business promotion expenses being gift to one of the employee.

12. The AO disallowed the expenses by observing that this gift was not made for the purpose of business which disallowance was confirmed by Ld.CIT(A).

13. Heard the contentions of both parties and perused the material available on record. The claim of the assessee is that it had purchased vehicle and same was gifted to one of the employee however, neither before the lower authorities nor before us, any details were submitted of the service rendered by such employee which had benefited the assessee. Ld. CIT(A) observed that gift was made to one of the employee to perform his duties who is having monthly salary of INR 15,000/-. This fact further creates doubts about the claim of the assessee as business expenditure. At the most, assessee can claim depreciation on the cost of vehicle which was provided to one of the employee for performing his official duties. Further, the vehicle was purchased in the name of assessee therefore, assessee is entitled for depreciation on the cost of the same. Accordingly, we uphold the disallowance made and direct the AO to allow depreciation on the cost of vehicle at the rate prescribed under the Act. Accordingly, Ground of appeal No.3 raised by the assessee is partly allowed.

14. **Ground of appeal No.(iv)** is with respect to the not allowing deduction towards interest paid on the loans taken for acquisition of house property.

15. The lower authorities disallowed the claim as the same was not made in the return of income filed u/s 139(1) nor in the revised return filed. It was claimed for the first time before Ld.CIT(A) during the course of appellate proceedings. Hon'ble Supreme Court in the case of **Goetz (India) Ltd. vs CIT** reported in **[2006] 284 ITR 323 (SC)** has held that fresh claim of deduction could be claimed through revised return.

16. In the instant case it is a fact on record that assessee had not made the claim of deduction towards interest paid from the house property income either in the original return nor in the revised return. Further, no evidence was filed with respect to the interest paid on housing loan. Therefore, we do not find any infirmity in the order of the lower authorities in not allowing the claim of the assessee on this score. Accordingly, Ground of appeal No.(iv) raised by the assessee is dismissed.

17. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 26.09.2025.

**Sd/-**

**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

**Sd/-**

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

**Date:-26.09.2025**

*\*Amit Kumar, Sr.P.S\**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI