

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं /**ITA No.891/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2021-22)

Country Club Hospitality & Holidays Limited, Hyderabad. PAN: AAACC8276B	Vs.	Deputy Commissioner of Income Tax, Circle-1(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:		Shri P. Murali Mohan Rao, CA
राजस्व द्वारा/Revenue by:		Dr. Sachin Kumar, Sr. AR
सुनवाई की तारीख/Date of Hearing:		19/11/2025
घोषणा की तारीख/Date of Pronouncement:		26/11/2025

आदेश / ORDER

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee company is directed against the order passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi (for short, "CIT(A)"), dated 22.04.2025, which in turn arises from the assessment order passed by the AO under section 143(3) r.w.s. 144B of the Income-tax Act, 1961 (for short, "Act"), dated 26.12.2022 for AY 2021-22. The assessee company

has assailed the impugned order on the following grounds of appeal before us:

- “1. The order of the CIT(A) passed u/s 250 of the Act dated 22-04- 2025 is erroneous both on facts and in law to the extent the order is prejudice to the interests of the appellant.
2. The Ld. CIT(A) erred in not considering the fact that no reasonable opportunity of being heard was provided to assessee as per the prescribed scrutiny norms u/s 143 of the Act which is against the principles of natural justice and bad in law.
3. The Ld. CIT(A) erred in upholding the decision of Assessing Officer in disallowing the claim of commission expenses paid by assessee for a sum of Rs. 49,01,744/- without fairly and properly appreciating the facts of the case that the expenses were incurred regular course of business which is incorrect and bad in law.
4. The Ld. CIT(A) ought to have appreciated the fact that the assessee has fulfilled his onus to prove the identity of the person who was paid commission, Creditworthiness and Genuineness of the transactions during scrutiny proceedings and the addition needs to be deleted.
5. The Ld. CIT(A) ought to have appreciated the fact that the assessee has duly submitted the Confirmation letters, Form 16A, Ledger entries, Bank statements of the payments made and PAN of Mr. K. Shekhar during scrutiny proceedings and the addition needs to be deleted.
6. The Ld. CIT(A) ought to have appreciated the fact that the payments made towards commission expense were made through a proper banking channel, which itself is an impeccable evidence against the impugned addition made by Assessing Officer and the addition deserves to be deleted.
7. The Ld. CIT(A) ought to have appreciated the fact that the noncompliance to the notices issued u/s 133(6) of the Act and the fact that non filing of ITR by Mr. K. Shekhar is beyond the control of the assessee and making such addition on that particular reason is invalid and bad in law.
8. The Ld. CIT(A) erred in not considering the fact that the assessee has submitted Form 16A of Mr. K. Shekhar which clearly depicts that the assessee has paid commission of Rs. 49,01,744/- and has duly deducted and deposited TDS of Rs. 1,43,872/- on the commission paid u/s 194H & 194C of the Act.

9. Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”

2. Succinctly stated, the assessee company, which is engaged in the business of running hotels, resorts, restaurants, clubs, health facilities and related hospitality activities, had filed its return of income for A.Y. 2021-22, declaring a business loss of Rs. 33,88,31,712/- and an income of Rs. 5,80,20,640/- under the head “Income from other sources”. Thereafter, the case of the assessee company was selected for scrutiny assessment under CASS on the issue of “*Large payments made u/s 194H to persons who have not filed return of income.*”

3. During the course of assessment proceedings, the AO observed that the assessee company had made commission and related payments aggregating to Rs. 49,01,744/- to one Shri Shekar K, on which tax was deducted at source (TDS) under Section(s) 194H/194C of the Act. The AO to verify the authenticity of the subject payments issued notice u/s 133(6) to the payee, viz. Shri Shekar K, but no reply was received from the said party. Also, the AO noted inconsistencies in some amounts furnished by the assessee company during the assessment proceedings. Accordingly, the AO, holding a conviction that the genuineness of the assessee’s claim for deduction of the subject

expenditure was not proved, treated the entire amount of Rs. 49,01,744/- as bogus and added it back the same to its returned income.

4. Aggrieved, the assessee company assailed the assessment framed by the AO vide his order passed under section 143(3) r.w.s. 144B of the Act, dated 26.12.2022, before the CIT(A).

5. As is discernible from the record, the CIT(A), after admitting additional evidence that was filed before him, held that as the assessee company had not conclusively demonstrated that the expenditure was genuine, upheld the disallowance of the same. However, the CIT(A) directed the AO to recompute income in accordance with law and grant TDS credit as available in "Form 26AS".

6. The assessee company, being aggrieved with the CIT(A) order, has carried the matter in appeal before us.

7. Ostensibly, the solitary ground raised before us hinges around the sustainability of the disallowance of the "commission expenses" of Rs. 49,01,744/- made by the AO.

8. We have heard the learned authorised representative of both parties, perused the orders of the authorities below and the material

available on record, as well as considered the judicial pronouncements that have been pressed into service by them.

9. On a perusal of the record, we find that the assessee company had produced the confirmation letters from the recipient, viz. Shri Shekar K, PAN details, and Form 16A evidencing deduction and deposit of tax at source (TDS) on the impugned payments. Also, the bank statement extracts showing payments made either to the said party or on his behalf were also furnished. Further, we find that the assessee company had also filed before the AO the ledger extracts of the account of the payee, viz. Shri Shekar K.

10. Apropos the alleged inconsistencies in the amounts submitted in the earlier replies, it transpires on a perusal of the record that the assessee company had explained that the same were clerical mistakes arising due to multiple notices that were responded to within short time spans. Apart from that, we find that the authorities below had failed to place on record any material which would go to suggest that the payments made by the assessee company were either routed back to its coffers or that they were fictitious.

11. We have thoughtfully considered the contentions advanced by the Ld. Authorised Representatives of both parties in the backdrop of the

orders of the authorities below. In our considered view, merely because the recipient, viz. Shri. Shekar K did not respond to the notice issued under Section 133(6) of the Act, the expenditure cannot be treated as bogus, specifically when the assessee company has produced primary evidence supporting its claim of having paid commission to the said person. We are of firm conviction that, as the law is well settled that where the assessee discharges its primary onus by furnishing confirmations, bank details, PAN, TDS details and ledger accounts, the burden shifts to the revenue to prove to the contrary. In our view, the Revenue must bring irrefutable material on record to disprove the assessee's claim, which we find has not been done in the present case before us.

12. We also find merit in the contention of the Ld. AR that commission payments in the hospitality and club-membership business are commercial-in-nature, and that payments through banking channels, coupled with deduction of tax at source (TDS) on such payments, provide strong corroboration of the genuineness of the claim of the assessee company of having incurred the subject expenditure.

13. Further, we find that the AO had also not doubted that services were rendered by the aforementioned person, viz. Shri. Shekar K.

Rather, the disallowance of the assessee's claim for deduction of expenditure is substantially founded on the non-response by the payee to the notice u/s 133(6) of the Act, and variations in figures in the replies that were filed by the assessee company. In our view, such discrepancies, when viewed in the totality of documentary evidence that was filed before the authorities below, are not sufficient to hold the claim of the assessee company for deduction of the commission expenditure as 'bogus'.

14. We, thus, in terms of our aforesaid deliberations, are of firm conviction that as the assessee company had discharged the primary onus that was cast upon it to prove the authenticity of its claim for deduction of commission expenditure of Rs. 49,01,744/-, therefore, the CIT(A), without referring to any such material which would irrefutably dislodge the veracity of the aforesaid claim of the assessee company and prove to the contrary was not justified in sustaining the disallowance that was made by the AO.

15. Resultantly, the CIT(A) order is set aside, and the disallowance of the commission expenditure of Rs. 49,01,744/ claimed by the assessee company is vacated.

16. In the result, the appeal filed by the assessee company is allowed in terms of our aforesaid observations.

Order pronounced in the open court on this 26th day of November, 2025.

Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,

Dated 26th November, 2025

OKK / SPS

Copy to:

S.No	Addresses
1	Country Club Hospitality & Holidays Limited, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad, Telangana-500082.
2	Deputy Commissioner of Income Tax, Circle-1(1), Hyderabad, Telangana.
3	The Pr.CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Hyderabad.