



IN THE INCOME TAX APPELLATE TRIBUNAL
"H" BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

ITA no.4820/Mum./2015
(Assessment Year : 2010-11)

Urmil Mukund Mavani
A/4, 362, Mohanlal Mansion
Dr. Ambedkar Road
Matunga (CR), Mumbai 40 019
PAN – AELPM8857Q

..... Appellant

v/s

Asstt. Commissioner of Income Tax
Circle—17(2), Mumbai

..... Respondent

Assessee by : None
Revenue by : Shri K.C. Kanojia

Date of Hearing – 25.10.2016

Date of Order – 27.10.2016

ORDER

PER SAKTIJIT DEY, J.M.

Captioned appeal at the instance of the assessee is directed against the order dated 20th April 2015, passed by the learned Commissioner (Appeals)–32, Mumbai, for the assessment year 2010-11, on the following grounds of appeal:-

"1. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in holding that payment of ₹ 5,92,500 was made to related person under section 40A(2)(b) of the Act.

2. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in confirming disallowance of ₹ 5,92,500 made by the A.O. disregarding the facts that supply of reliable

customer information for which commission was paid is a valuable service resulting into increased turnover.

3. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in holding that the payment made to Mrs. Virti Pethad amounted to double deduction without appreciating the fact that different kind of services were rendered by members of the same family completely disregarding the commercial expediency."

2. As could be seen the only issue in dispute in the present appeal is in relation to addition of ₹ 5,92,500, made by the A.O. and sustained by the CIT(A).

3. Brief facts are, the assessee an individual is engaged in the business of trading in export of chemicals and as a commission agent. For the year under consideration, assessee filed his return of income on 26.9.2010 declaring total income of ₹ 37,23,204. In the course of assessment proceedings, the A.O. noticing that the assessee has claimed deduction towards payment of commission to different persons called for necessary details of the parties to whom commissions were paid and issued notices u/s 133(6) to the concerned persons to verify the genuineness of the commission payment. A statement was also recorded from one of the parties namely; Mrs. Virti Pethad on the basis of evidences gathered by the A.O. he concluded that the commission payment to the said party amounting to ₹ 5,92,500, is not allowable as business expenditure. Accordingly, he

added back the amount to the income of the assessee. Being aggrieved, assessee preferred appeal before the CIT(A).

4. Learned CIT(A) having considered the submissions of the assessee in the context of the facts and material on record, observed that though the concerned payee might be having knowledge of dyes, however, the assessee had paid commission to three separate members of the family at the same time. He observed, when the assessee has already paid commission to her father-in-law Shri Shivlal Pethad, again paying same commission to Smt. Virti Pethad, amounts to double deduction. Therefore, relying upon the observations of the A.O., the CIT(A) upheld the disallowance of commission.

5. When the appeal was called for hearing, no one was present on behalf of the assessee. On a perusal of the order sheet entries, it is noticed that on 1.9.2016 also, no one appeared on behalf of the assessee. A notice issued under RPAD intimating the date of hearing of appeal fixed on 25.10.2016, as appears from the postal A.D., was duly served on the assessee. Thus, from the aforesaid fact, it is clear that the assessee is not interested in pursuing the present appeal. That being the case we proceed to dispose off the appeal ex-parte qua the assessee after hearing the D.R.

6. We have heard the D.R. and perused the material on record. A specific finding of the CIT(A) in the impugned appeal order is the assessee has paid commission to three different members of the same family. He, therefore, had concluded that by claiming the same commission paid to Smt. Virti Pethad, which has already been paid to her father-in-law Shri Shivlal Pethad, amounts to double deduction. The assessee has neither appeared before us to argue the matter nor produced any other material to controvert the aforesaid factual finding of the CIT(A). In the aforesaid view of the matter, we do not find any infirmity in the order of the CIT(A) in upholding the disallowance. The grounds raised by the assessee are dismissed.

7. In the result, appeal stands dismissed.

Order pronounced in the open Court on 27.10.2016

Sd/-
MANOJ KUMAR AGGARWAL
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 27.10.2016

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

(Dy./Asstt. Registrar)
ITAT, Mumbai