

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ , मुंबई ।

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

AND SHRI AMARJIT SINGH, JUDICIAL MEMBER

आयकर अपील सं/ I.T.A. No.4912/Mum/2011

(निर्धारण वर्ष / Assessment Year:2006-07

Mr. Rishi K. Rajani, Bhagwat Niwas, Peddar Road, Mumbai-400 026	बनाम/ Vs.	The ACIT-16(1), Matru Mandir, Mumbai-400 007
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आयकर अपील सं/ I.T.A. No.7223/Mum/2012

(निर्धारण वर्ष / Assessment Year:2008-09

The ACIT-16(1), Matru Mandir, Mumbai-400 007	बनाम/ Vs.	Mr. Rishi K. Rajani, Bhagwat Niwas, Peddar Road, Mumbai-400 026
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आयकर अपील सं/ I.T.A. Nos.1070 & 1071/Mum/2013

(निर्धारण वर्ष / Assessment Year:2007-08 & 2009-10

The ACIT-16(1), Matru Mandir, Mumbai-400 007	बनाम/ Vs.	Mr. Rishi K. Rajani, Bhagwat Niwas, Peddar Road, Mumbai-400 026
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स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABPR 0602C

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
अपीलार्थी ओर से/ Assessee by:		Shri Jitendra Jain
प्रत्यर्थी की ओर से/Revenue by:		Shri Sanjeev Kashyap

सुनवाई की तारीख / Date of Hearing : 19.10.2015

घोषणा की तारीख /Date of Pronouncement :28.10.2015

आदेश / O R D E R

PER N.K. BILLAIYA, AM:

All these appeals were heard together as they involved common issues and are disposed of by this consolidated order for the sake of convenience.

2. ITA No. 4912/Mum/2011 is the appeal by the assessee and all other appeals are by the Revenue. The common grievance is in relation to the disallowance out of foreign travel expenses.

2.1. In A.Y. 2006-07, foreign travel expenses claimed by the assessee was at Rs. 35,18,487/-. The AO disallowed 1/3rd out of it at Rs. 11,72,829/-. The disallowance was confirmed by the Ld. CIT(A). Hence, assessee is in appeal.

2.2. In A.Y. 2007-08, the claim of the expenses were Rs.41,21,040/-. The AO disallowed 1/3rd at Rs. 13,73,680/-. The Ld. CIT(A) restricted the disallowance to 10% of the impugned expenses. Hence Revenue is in appeal,

2.3. For A.Y 2008-09, the claim was at Rs. 70,67,182/-. The disallowance was at Rs. 23,55,727/- which was restricted at Rs. 1,69,810/-.

2.4. For A.Y 2009-10, the claim of foreign travel expenses was at Rs. 83,36,883/-. The disallowance was at Rs. 27,78,961/- which was restricted by the Ld. CIT(A) at Rs. 1,63,964/-.

3. Rival contentions were heard at length. We have carefully perused the orders of the authorities below and the past history of the assessee. The assessee is engaged in the business of designing, manufacturing, trading and exporting of western ladies dresses. For

this purpose, the assessee has to travel to various countries for not only market its designs and dresses but also to find out the latest trends and designs prevailing in various countries.

3.1. For A.Y 2004-05, the Ld. CIT(A) restricted the disallowance to Rs. 2.50 lakhs out of total foreign travelling expenses of Rs. 51 lakhs which works out to 5%. Both the parties have accepted this order of the Ld. CIT(A). The impugned assessment year before us now are subsequent to A.Y. 2004-05.

3.2. After giving a thoughtful consideration to the factual matrix, in our considered opinion, the Ld. CIT(A) has correctly restricted the disallowance to 10% for assessment years 2007-08, 2008-09 and 2009-10. Therefore, no interference is called for, in so far as these assessment years are concerned. Appeals of the Revenue for these assessment years are accordingly dismissed.

4. Coming back to assessee's appeal in 2006-07, as the Ld. CIT(A) has observed that the assessee has failed to furnish necessary details/bifurcations of foreign travel expenditure under various heads. In our considered opinion, disallowance of 20% should meet the ends of justice. We, accordingly, direct the AO to restrict the disallowance to 20% of the foreign travel expenses. Assessee's grievance is partly allowed.

5. In so far as other disallowances for assessment year 2006-07 is concerned, we find that the disallowances are made for the expenditures claimed under the head:

a) Business promotion

- b) Motor car expenses
- c) Telephone expenses
- d) Membership & subscription expenses.

5.1. The Ld. CIT(A) has restricted the disallowances to 10% of the respective expenditures. We, therefore, do not find any infirmity in the findings of the Ld. CIT(A). Ground No. 2,3,4 & 5 are accordingly dismissed.

6. In the result, the appeals filed by the Revenue are dismissed and the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 28th October, 2015

Sd/-

(AMARJIT SINGH)

न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 28th October, 2015

व.नि.स./ Rj , Sr. PS

Sd/-

(N.K. BILLAIYA)

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई
/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार

(Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai