

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'C', BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI VIJAY PAL RAO, JUDICIAL MEMBER**

**ITA Nos.413 & 414(Bang) 2016
Assessment years : 2011-12 & 2012-13)**

M/s Food World Super Market,
No.740, Eswari Industrial Estate,
Hulimavu, Bannerghatta Road,
Bangalore-56 076

PAN No.AAACF4045K

Appellant

Vs

The Deputy Commissioner of Income Tax,
Circle-3(1)(2),
Bangalore

Respondent

Assesee by : None

Revenue by : Shri M.K.Biju, JCIT

Date of hearing : 11-01-2017

Date of pronouncement : 25-01-2017

ORDER

PER SHRI A.K.GARODIA, AM

Both these are assessee's appeals which are directed against two separate orders of the Id.CIT(A)-3, Bangalore dated 28-01-2016 for assessment year 2011-12 & 2012-13.

2. The grounds raised by the assessee in ITA No.413-2016 for assessment year 2011-12 are as under;

“1. The learned Assessing Officer had erred in passing the order in the manner passed by him and the learned Commissioner of Income-tax has erred in confirming the same. The impugned order passed by Assessing Officer is to be quashed in toto.

2. In any case and without prejudice the learned Assessing Officer has erred in disallowing 10% of temporary outsource cost and 50% of the stores closure expenses and the learned Commissioner of Income-tax (Appeals) has confirmed the disallowances.

3. The facts and circumstances of the case have not been properly appreciated by the lower authorities and the disallowances are made purely on adhoc and estimated basis.

4. The lower authorities have also erred in holding that the appellant has not produced documentary evidence. All the expenses are duly vouched and supportingly evidenced.

5. On proper appreciation of facts and circumstances of the case and the evidence available, it is clear that the entire expenditure on store closure and temporary outsourcing was incurred / done for the purpose of and in the course of carrying on business and the same is to be allowed as such and the disallowance made is to be deleted.

6. In view of the above and on other grounds of the appeal to be adjusted at the time of hearing, it is requested that the impugned assessment order be quashed or at least the disallowances as made and sustained be deleted.

3. Grounds raised in ITA No.414-2016 for the AY: 2012-13 are as under;

“1. The learned Assessing Officer had erred in passing the order in the manner passed by him and the learned Commissioner of Income-tax has erred in confirming the same. The impugned order passed by Assessing Officer is to be quashed in toto.

2. In any case and without prejudice the learned Assessing Officer has erred in disallowing 10% of temporary outsource cost and 50% of the stores closure expenses and the learned Commissioner of Income-tax (Appeals) has confirmed the disallowances.

3. The facts and circumstances of the case have not been properly appreciated by the lower authorities and the disallowances are made purely on adhoc and estimated basis.

4. The lower authorities have also erred in holding that the appellant has not produced documentary evidence. All the expenses are duly vouched and supportingly evidenced.

5. On proper appreciation of facts and circumstances of the case and the evidence available, it is clear that the entire expenditure on store closure and temporary outsourcing was incurred / done for the purpose of and in the course of carrying on business and the same is to be allowed as such and the disallowance made is to be deleted.

6. In view of the above and on other grounds of the appeal to be adjusted at the time of hearing, it is requested that the impugned assessment order be quashed or at least the disallowances as made and sustained be deleted.

4. Notice of hearing was sent to the assessee by RPAD, as per the address given by the assessee in form no.36, but the notice has come back unserved with the remark of postal department. “**left** return to sender”. No new address has been furnished by the assessee. Under these facts, it is not possible to serve notice on the assessee and hence, we decide these appeals of the assessee ex parte qua-assessee.

5. The ld. DR of the assessee supported the order of the ld. CIT(A).

6. We have considered the submissions of the ld. DR of the revenue and have gone through the orders of the ld. CT(A) in both these years.

7. We find that a categorical finding has been given by the ld. CIT(A) that there is specific finding of the AO that assessee has not

furnished the documentary evidence for substantiating the expenses claimed and therefore, the estimated disallowance of 50% of stores closure expenses claimed by the assessee is justified. Since no documentary evidence has been furnished before any of the authorities, we find no reason to interfere in these two orders of the Id. CIT(A).

8. In the result, both the appeals of the assessee are dismissed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(VIJAY PAL RAO)
JUDICAL MEMBER

Place: Bangalore:
D a t e d : 25.01.2017

am*

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

Sd/-
(A.K. GARODIA)
ACCOUNTANT MEMBER

By order

AR, ITAT, Bangalore

1. श्रुतलेख की तारीख.....
DATE OF DICTATION.....
2. तारीख, जिस पर टाइप किया हुआ मसौदे, संबंधित सदस्य के सामने रखा गया है
DATE ON WHICH TYPED DRAFT IS PLACED BEFORE THE DICTATING
MEMBER.....
3. तारीख जिस पर अनुमोदित मसौदे व. निजी सचिव/निजी सचिव के पास वापस आए
DATE ON WHICH THE APPROVED DRAFT COMES TO THE PS/Sr.PS.....
4. घोषणा के लिए आदेश संबंधित सदस्य के सामने रखने की तिथि
DATE ON WHICH THE ORDER IS PLACED BEFORE THE DICTATING MEMBER
FOR PRONOUNCEMENT.....
5. आदेश नि.सचिव/व.नि.सचिव के पास वापस आने की तिथि
DATE ON WHICH THE ORDER COMES BACK TO THE PS/Sr.PS.....
- 6 आदेश अपलोड करने की तिथि
DATE OF UPLOADING THE ORDER ON WEBSITE.....
7. अगर अपलोड नहीं किया तो, उसका कारण
IF NOT UPLOADED, FURNISH THE REASON FOR DOING SO.....
8. बेंच लिपिक के पास फाइल जाने की तिथि
DATE ON WHICH THE FILE GOES TO THE BENCH CLERK.....
9. आदेश ज़ेरोक्स/पृष्ठांकन के लिए भेजने की तिथि
DATE ON WHICH ORDER GOES FOR XEROX & ENDORSEMENT.....
10. फाइल मुख्य लिपिक के पास जाने की तिथि
DATE ON WHICH THE FILE GOES TO THE HEAD CLERK.....
11. आदेश पर हस्ताक्षर के लिए फाइल सहायक रजिस्ट्रार के पास जाने की तिथि
THE DATE ON WHICH THE FILE GOES TO THE ASSISTANT REGISTRAR FOR
SIGNATURE ON THE ORDER.....
12. अधिकरण आदेश के प्रेषण के लिए फाइल प्रेषण विभाग में जाने की तिथि
THE DATE ON WHICH THE FILE GOES TO DESPATCH SECTION FOR DESPATCH
OF THE TRIBUNAL ORDER.....
13. आदेश की प्रेषण की तिथि
DATE OF DESPATCH OF ORDER.....