

**आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ , मुंबई ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL "E" BENCH, MUMBAI**

**BEFORE SHRI RAJENDRA, ACCOUNTANT MEMBER AND**

**SHRI C.N. PRASAD, JUDICIAL MEMBER**

**आयकर अपील सं /I.TA No. 800/Mum/2015**

**(निर्धारण वर्ष / Assessment Year: 2010-11**

Shri Karan Yash Johar, (Prop. M/s. Dharma Prroductions), Jains Arcade, 2 <sup>nd</sup> Floor, 14 <sup>th</sup> Road, Khar (W), Mumbai-400 052	<b>बनाम/</b> Vs.	The ACIT-16(1), Aayakar Bhavan, Mumbai-400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAAPJ 7657A		
<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
अपीलार्थी ओर से/ Appellant by:		Shri Mitul Jasolia
प्रत्यर्थी की ओर से/Respondent by:		Shri N. Sathya Moorthy

**सुनवाई की तारीख / Date of Hearing :19.07.2016**

**घोषणा की तारीख /Date of Pronouncement :28 .09.2016**

**आदेश / O R D E R**

**PER C.N. PRASAD, JM:**

This appeal is filed by the assessee against the order of the Ld. CIT(A)-52, Mumbai dated 30.12.2014 pertaining to assessment year 2010-11.

2. The assessee has raised the following grounds:

*"1. On the facts and in the circumstances of the case and in law, the Hon'ble CIT (A) erred in confirming the adhoc disallowance @10% made by the Ld. AO of Rs. 1,56,671/-*

*out of Rs. 15,66,712/- [Rs. 5,01,289 + 10,65,423] claimed as vehicle related expenses and depreciation on vehicle. The appellant prays that the said disallowance is unjustified and may please be deleted.*

*Ground No. 2:*

*On the facts and in the circumstances of the case and in law, the Hon'ble CIT (A) erred in confirming the adhoc disallowance @10% made by the Ld. AO of Rs. 20,962/- out of Rs. 2,09,616/- claimed as costume and dresses expenses. The appellant prays that the said disallowance is unjustified and may please be deleted.*

*Ground No. 3:*

*On the facts and in the circumstances of the case and in law, the Hon'ble CIT (A) erred in confirming the adhoc disallowance @10% made by the Ld. AO of Rs. 11,335/- out of Rs. 1,13,353/- claimed as telephone and mobile expense. The appellant prays that the said disallowance is unjustified and may please be deleted.*

*Ground No.4:*

*On the facts and in the circumstances of the case and in law, the Hon'ble CIT (A) erred in confirming the adhoc disallowance @10% made by the Ld. AO of Rs. 28,370/- out of Rs.2,83,700/- claimed as sales promotion expenses. The appellant prays that the said disallowance is unjustified and may please be deleted”.*

3. At the outset, the Ld. Counsel for the assessee submits that in so far as ground No. 1 & 3 are concerned, they are raised against confirming the adhoc disallowance made @ 10% of vehicle related expenses and depreciation on vehicle, telephone and mobile expenses. The Ld. Counsel for the assessee submits that in the immediately preceding Assessment Years 2007-08 & 2009-10 the issue has been considered by the Co-ordinate Bench in assessee's

own case in ITA Nos. 2591 & 2592/M/2013 dated 15.4.2015 and the Tribunal restricted the disallowance to 5%. A copy of the order is placed on record. The Ld. Counsel for the assessee submits that the same may be followed for this Assessment Year also. In respect of ground No. 2 & 4 relating to adhoc disallowance of 10% out of costume and dresses expenses claimed by the assessee and adhoc disallowance of 10% disallowed out of sales promotion expenses, the Ld. Counsel for the assessee submits that this adhoc disallowances were deleted by the Tribunal in the preceding Assessment Years. Therefore, he submits that the same may be followed for this Assessment Year also.

4. The Ld. Departmental Representative supports the orders of the authorities below.

5. We have heard the rival submissions and perused the Co-ordinate Bench decision in assessee's own case for the earlier Assessment Years and find that the Co-ordinate Bench restricted the adhoc disallowance in respect of vehicle related expenses, depreciation on car, telephone and mobile expenses to 5%. Thus, for the reasons given therein, following the said order, we direct the Assessing Officer to restrict the expenses to 5%.

6. In respect of adhoc disallowance out of costume and dress expenses and sales promotion expenses, we find that the Co-ordinate Bench deleted the disallowances. Facts and circumstances being identical, respectfully following the said decision, we delete the

ad hoc disallowances made in respect of costume and dress expenses and sales promotion expenses.

7. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 28<sup>th</sup> September, 2016.

Sd/-

Sd/-

**(RAJENDRA)**

**(C.N. PRASAD )**

लेखा सदस्य / ACCOUNTANT MEMBER

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 28<sup>th</sup> September, 2016

व.नि.स./ Rj , Sr. PS

**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**