

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : A : NEW DELHI

BEFORE SHRI R.S. SYAL, AM & MS SUCHITRA KAMBLE, JM

ITA No. 2581/Del/2014
Assessment Year : 2007-08

AAA Portfolios Pvt. Ltd. Vs. DCIT,
202, 1st Floor, Okhla Circle-1(1),
Indl. Estate, Phase-III, New Delhi.
New Delhi -110020

(Appellant)

(Respondent)

Assessee By : Shri R.M. Mehta, CA
Department By : Shri S.K. Jain, Sr. DR

Date of Hearing : 02.08.2016
Date of Pronouncement : 02.08.2016

ORDER

PER R.S. SYAL, AM:

This appeal by the assessee is directed against the order passed by the CIT(A) on 27.3.2014 in relation to the assessment year 2007-08.

2. The first issue raised in this appeal is against the confirmation of disallowance of Rs.9,66,984 out of Business promotion expenses.

3. Briefly stated the facts of the case are that the assessee is engaged in the business of dealing in shares and financing. A deduction for a sum of Rs. 19,33,967/- was claimed by the assessee towards Business promotion expenses. In the absence of any details of such expenditure having been filed by the assessee, the A.O. disallowed the entire expenditure. The assessee furnished such details before the Ld. CIT(A), who obtained a remand report from the A.O. Considering the entirety of facts and circumstances before him, the Ld. CIT(A) reduced the addition to 50% of total expenses to the tune of Rs. 9,66,984/- The assessee is aggrieved against the sustenance of addition.

4. We have heard the rival submissions and perused the relevant material on record. It is noticed that the assessee incurred Business promotion expenses for entertainment to C.F.Os., brokers, analysts and purchased gift items for clients etc., as has been recorded by the Ld. CIT(A) in the impugned order. He admitted that such type of expenses were : `certainly a requirement for an interface between the appellant company and its officers and members of staff with share-broking

community, finance professionals, business analysts etc.’. Despite that he sustained the addition at 50% of expenses by observing that : ‘costly gifts etc. were offered to such persons that might not commensurate with the business turnover/business receipts of the appellant in real sense of the term.’ It can be seen from the reasoning given by the Ld. CIT(A) that though he accepted the genuineness of the expenditure, but stepped into the shoes of the assessee to judge that incurring of such expenditure was not commensurate with the business turnover. We are unable to appreciate this reasoning because it is for the assessee to decide that what amount of expenditure should be incurred by him for his business purpose. The authorities under the Act can examine genuineness of the expenditure but can’t dictate the way and the extent of incurring the expenses. It is observed that as against the current year’s Business promotion expenditure of Rs. 19.33 lac on total income of Rs. 3.01 crore, the assessee incurred such expenditure at Rs. 74.81 lac on total income of Rs. 6.55 crore in the immediately preceding year. The assessment for such year was completed u/s 143(3) without making any disallowance. In view of the foregoing discussion, we are satisfied that

the Ld. CIT(A) was not justified in sustaining the addition to this level.

We order for the deletion of entire addition.

5. In view of our decision in deleting the addition, the second ground of the assessee about the determination of 'Book profit' by adding the disallowance of business promotion expenses upheld in the first appeal, gets consequently allowed.

6. In the result, the appeal is allowed.

The order pronounced in the open court on 02.08.2016.

Sd/-

[SUCHITRA KAMBLE]
JUDICIAL MEMBER

Sd/-

[R.S. SYAL]
ACCOUNTANT MEMBER

Dated, 02nd August, 2016.

Self by the AM.

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.

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