

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, PUNE

BEFORE MS. SUSHMA CHOWLA, JM AND
SHRI ANIL CHATURVEDI, AM

ITA No. 1470/PUN/2018
Assessment Year : 2014-15

Latish Chandar Samnani,
Kamlesh Housing Co-operative Society,
Jinamata Nagar, Jail Road, Nashik-422101.
PAN-DIIPS2512A

Appellant

.....

बनाम / V/s.

ITO,
Ward-2(1), Nashik.

..... / Respondent

Assessee by : Shri P.S.Shingte

Revenue by : Shri M.K.Verma

Date of Hearing : 14.03.2019

Date of Pronouncement : 17.05.2019

ORDER

PER ANIL CHATURVEDI, AM :

This appeal by the assessee is filed against the order of the Ld. CIT(Appeals)-1, Nashik dated 26.06.2018 for the assessment year 2014-15. The relevant facts as culled out from the material on record are as under:-

2. The assessee is an individual stated to be engaged in the business of wholesale trading in sugar and grains. The assessee filed its return of income for AY 2014-15 on 29.11.2014 declaring a total income of Rs.6,18,270/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Income Tax Act, 1961 (in short "Act") on 14.12.2016 and the total income was determined at Rs. 10,95,470/-. Aggrieved by the order of Assessing Officer, the assessee

carried the matter before the CIT(A) who vide order dated 26.06.2018 granted partial relief to the assessee. Aggrieved by the order of CIT(A), assessee is in appeal before us and has raised following ground:-

1. *“On the facts and in the circumstances of the case, and in law the Lower Authorities erred in confirming a sum of Rs.2,38,599/- being 10% of freight expenses of Rs.23,85,992/- disregarding the appellant’s contention and without bringing on record any evidence for the disallowance in this regard.”*

3. During the course of assessment proceedings, the assessee was asked to produce supporting such as bills/vouchers/receipt of expense of Rs.23,85,992/- claimed under the head “freight”. The assessee filed copies of vouchers of sample basis. On perusing the vouchers, it was noted by the Assessing Officer that the vouchers were self made vouchers and the payments were in cash and it did not bear the name of payee or the vehicle No. in which goods were transported. He accordingly disallowed 20% of such expenses amounting to Rs.4,77,200/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who granted partial relief to the assessee by restricting the disallowance to 10% as against 20% made by the Assessing Officer. Aggrieved by the order of CIT(A), assessee is in appeal before us.

4. Before us, Ld.AR reiterated the submissions made before the Assessing Officer & CIT(A) and submitted that the payments were made to drivers and transporters. It was further submitted that the books of the assessee are audited and no discrepancies have been pointed out by the auditor. He therefore submitted that no disallowance on adhoc basis is called for. However, in the alternate, he submitted that disallowance if made at 5% would be acceptable to the assessee. Ld.DR on the other hand, supported the order of Assessing Officer.

5. We have heard rival submissions and perused the material available on record. The issue in the present case is with respect to disallowance of freight for expenses. The Assessing Officer had disallowed the expenses at 20% on adhoc basis which was restricted to 10% by CIT(A). Before us, it is assessee's submissions that if the addition is restricted to 5% freight expenses, it would be acceptable to the assessee. Considering the totality of the facts and in view of the alternate submission of the Ld.AR, we direct that the disallowance be restricted to 5% of freight expenses. We thus, direct accordingly. Thus, ground raised by the assessee is partly allowed.

6. In the result, **appeal of the assessee is partly allowed.**

Order pronounced on 17th day of May, 2019.

Sd/-

Sd/-

(SUSHMA CHOWLA)
JUDICIAL MEMBER

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Dated : 17th May, 2019.

Amit Kumar

Copy of the Order forwarded to :

1. The Appellant-Latish Chandar Samnani, Kamlesh Housing Co-operative Society, Jinamata Nagar, Jail Road, Nashik-422101.
2. The Respondent-ITO, Ward-2(1), Nashik.
3. The CIT(Appeals), Pune.
4. The CCIT, Pune.
5. DR, ITAT, Pune.
6. Guard File.

BY ORDER,

Senior Private Secretary
ITAT, Pune.