आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR

श्री संदीप गोसाईं, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA No. 210/JP/2020
Assessment Year: 2014-15

Mangal Chand Kumawat, 40B, Arjun Nagar, Gopalpura Bye Pass, Jaipur.	बनाम Vs.	A.C.I.T., Circle-6, Jaipur.
PAN No.: AJPPK 1269 D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Bhupesh Mathur (CA)
राजस्व की ओर से / Revenue by : Smt. Monisha Choudhary (JCIT)

सुनवाई की तारीख / Date of Hearing : 17/03/2021
उदघोषणा की तारीख / Date of Pronouncement : 19/04/2021

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

The present appeal has been filed by the assessee against the order of the ld. CIT(A)-2, Jaipur dated 28/01/2020 for the A.Y. 2014-15. Following grounds have been taken by the assessee:

> *"1. That on the facts and in the circumstances of the case, the respected Commissioner of Income Tax (Appeal)-2, Jaipur is wrong, unjust and has erred while upholding the AO's decision and confirmed addition of Rs. 9,83,475/- on account of disallowed of job work charges.*
>
> *2. That assessee craves the right to add or amend the grounds of the appeal during the hearing or before the date of appeal."*

2. The hearing of the appeal was concluded through video conference in view of the prevailing situation of Covid-19 Pandemic.

3. Brief facts of the case are that the A.O. made disallowance out of job work charges amounting to Rs. 19,66,951/- which was paid by the assessee in cash on the ground that the supported documents are not filed by the assessee, therefore, the same could not be verified.

4. Being aggrieved by the order of the A.O., the assessee carried the matter before the ld. CIT(A), who after considering the facts and submissions of both the parties, restricted the disallowance @ 5% instead of 10% made by the A.O. i.e. to the tune of Rs. 9,83,875/-. Against the order of the ld. CIT(A), the assessee has preferred the present appeal before the ITAT.

5. The only ground raised by the assessee relates to challenging the order of the ld. CIT(A) in upholding the action of the A.O. made on account of disallowance of job work charges. In this regard, the ld AR appearing on behalf of the assessee has reiterated the same arguments as were raised before the ld. CIT(A) and also relied on the written submissions filed before the Bench and the same is reproduced below:

> *"We humbly submit that the disallowance of Job charges paid have been made without bringing out any reason or specific instances of non-evidence.*
>
> *Regular books of accounts were maintained by the appellant, which were supported by vouchers and record and were duly audited. Return*

of income was filed based thereon. Assessee produced books of accounts along with all relevant vouchers before the ld. AO during the course of impugned assessment proceedings. A show cause notice dated 13.12.2016 was issued by ld.AO. In reply of said show cause notice appellant had produced ledger copy of job charges paid in cash along with cash book and relevant vouchers before the Ld AO on 19.12.2016.

(Paper Book Annexure - 19)

Ld AO without considering the facts and nature of the business of the appellant, disallowed 10% of Job Charges paid in cash without any specific reason and purely on the basis of suspicion, assumptions.

Appellant was engaged in the business of demarcation, survey of colonies and map making. There are lots of unskilled labour were required for doing/ completion of a particular assignment. It is undisputed matter between nature of business and requirement of unskilled labour. Ld AO was also rightly accepted the requirement of cash paid labour in his order dated 19-12-2016 page no 2, para no 5, line no 2:-

> *"It is admitted that for carrying out the work, labour is required and for that payment would have been made".*

[Paper Book Annexure 16-18]

During the impugned assessment proceedings books of accounts along with vouchers, ledger copies were produced before the Ld AO but without pointing out any specific reason or rejecting books of accounts disallowed the job charges which is not only vague but based on mere assumption and surmises.

Meaning thereby Ld AO has accepted 90% of the expenditure of this nature, there was no reason for restricting the claim to 90% alone and disallow 10%.

Further submission that in the case of ***Commissioner of Income Tax Versus The Lakshmi Vilas Bank Ltd. Tax Case (Appeal) No. 896 of 2013 Dated - 16 April 2014 2014 (4) TMI 827 - MADRAS HIGH COURT***

Honorable High Court held that:-

> *"Whether, on the facts and in the circumstances of the case the Tribunal was right in deleting the disallowance of 10% of the assessee's claim of other expenses amounting to Rs. 84,33,561/- on the ground that there is no specific rejection of details placed by the assessee on record when the assessee had not produced any vouchers in support of the claim?"*

The Tribunal held that neither the Assessing Officer nor the Commissioner of Income *Tax* ***(Appeals) had any material on record to reject the claim of the assessee. Once the Assessing Officer held that 90% of the expenditure of this nature was liable to be accepted, there*** *was no* ***reason for restricting the claim to 90% alone and disallow 10%.***

High Courts view:

The honorable High Court observed and held on the following lines:

a. *We do not find any ground to admit this Tax Case (Appeal) since the issue herein is purely a factual one.*

b. *It is not denied by the Revenue that the assessee has 24 (sic 224) branches, 8 divisional office and a head office.*

c. The expenditure claimed by the assessee related to petty cash expenditure.

d. When the Revenue had thought fit to allow 90% of the claim, there was no reason to reject the balance 10% attributing it to the possibility of having the shade of a personal expenditure.

e. Except for this reasoning, we do not find any justification in the Revenue's contention that the disallowance of 10% is warranted in the facts of the case.

f. The order of Tribunal, being a pure factual issue the court rejected the appeal at the admission stage itself and in the result, the Tax Case (Appeal) was dismissed."

[Paper Book Annexure 25-27]

It is further submitted that the expenditure being incurred in the day to day business activity and is wholly and exclusively for the purpose of the business. Additions made by the Ld AO were without providing any specific reason or rejecting books of account, which was not only vague but based on mere assumption and surmises. In this regard further reliance is placed on the following decisions.

1. *CIT, Delhi-7 vs. DLF Hilton Hotels, 240 Taxman 495 [2016] (Delhi HC)*
2. *Vilas Transport Company vs ITO 13(2)(1), Mumbai [Mumbai ITAT] (ITA no. 6717 / Mum/2013)*
3. *ITO Ward 12(1), New Delhi vs Shri Balbir Singh [Delhi ITAT] (ITA no. 2329/Del./2008)*

PRAYER

In view of the Grounds of Appeal as above, it is humbly prayed that the Hon'ble Tribunal, may kind enough to delete the *demand of balance 5% addition of Rs. 9,83,475/- made by ACIT Circle-6, Jaipur vide his order dated 19.12.2016."*

6. On the other hand, the ld. DR has relied on the orders of the authorities below.

7. We have considered the rival contentions and carefully perused the material placed on record. We have also deliberated upon the judicial pronouncements cited by both the parties. As per facts of the present case, the case of the assessee was selected for examination on account of 'large other expenses claimed in P&L account'. The details of expenses in the P&L account has been mentioned by the ld. CIT(A) in her order at para 2.1 and the same is reproduced below:

S. No.	Name of expenses	Amount
1.	Bank Charges	2210.00
2.	Car Insurance	56861.00
3.	Cartage	118062.00
4.	General Exp.	5975.00
5.	Interest on car loan	20404.00
6.	Interest on loan	145800.00
7.	Job work paid	33265591.00
8.	Petrol	71090.00
9.	Printing & Stationary	143691.00
10.	Refreshment Exp.	2298.00
11.	Repair & Maintenance Expenses	282554.00
12.	Staff Welfare	35000.00
13	Tour Travels	1950.00
14.	Water	1298.00
15.	Total	34152784.00

All those expenses were examined by the A.O. and it was found that the assessee paid job work charges of Rs. 3,32,65,591/-, out of this, amount of Rs.19,66,951/- was paid in cash. Since complete supporting evidence for verification of expenses were not produced and only ledger account was furnished by the assessee which contains details of cash payment made on a particular date. Therefore, in such circumstances and considering the facts of the present case expenses @ 10% of Rs. 1,96,69,519/- which comes to Rs. 19,66,591/- was disallowed and added to the total income of the assessee. Even before us, the AR has reiterated the same arguments as were raised before the ld. CIT(A) and also submitted that all the supported vouchers and recorded were duly submitted before the A.O. during the course of assessment proceedings, therefore, in such circumstances, no disallowance should have been made by the A.O. In this respect, the ld AR has relied on the decision of Hon'ble Madras High Court in the case of **CIT Vs The Lakshmi Vilas bank Ltd., Tax Appeal No. 896 of 2013 dated 16th April, 2014**. However, the facts contained in the above case are altogether different from the facts of the present case.

8. As per the facts of the present case, the assessee had claimed expenses with regard to job work charges amounting to Rs. 3,32,65,591/- out of which substantial amount of Rs. 19,66,951/- was paid in cash. The

genuineness of the quantum of payment was required to be verified by the A.O. and since the substantial amount was paid in cash. No any details of vouchers in support of cash payment was filed and only copy of ledger was filed which also reflects the details of cash payment made on a particular date but no supporting evidence to justify the payment was filed. Therefore, in absence of complete supporting evidence, verification of the expenses was not possible. Even before us, no details of vouchers have been filed and only submission was made to the effect that complete ledger accounts alongwith supporting evidence has been filed before the A.O. for verification, however, we are of the view that in absence of complete supporting evidence, confirmation of expenses were not possible by the A.O.. Therefore, considering the facts of the case and the substantial amount of Rs. 1,96,69,519/- was made in cash, the A.O. was justified in making disallowance @ 10% of the said amount which comes to Rs. 19,66,951/- and added to the total income of the assessee. We are further of the view that since the genuineness of quantum of payment so made by the assessee was to be verified and the facts in support of cash payments so made, the same could not be verified for justifying the payments. No new facts or circumstances have been brought before us by the ld AR in order to controvert or rebut the factual findings recorded by the ld. CIT(A), therefore, we see no reason to interfere into or deviate from the findings so recorded by the ld. CIT(A) and we uphold the same.

9. In the result, this appeal of the assessee is dismissed.

Order pronounced in the open court on 19th April, 2021.

Sd/-	Sd/-
(विक्रम सिंह यादव)	(संदीप गोसाईं)
(VIKRAM SINGH YADAV)	(SANDEEP GOSAIN)
लेखा सदस्य / Accountant Member	न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 19/04/2021
*Ranjan
आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Mangal Chand Kumawat, Jaipur.
2. प्रत्यर्थी / The Respondent- The A.C.I.T., Circle-6, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 210/JP/2020)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar