

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH; AMRITSAR.

BEFORE SH. T. S. KAPOOR, ACCOUNTANT MEMBER
AND SH. N.K. CHOUDHRY, JUDICIAL MEMBER

I.T.A No. 509/(Asr)/2016

Assessment Year: 2011-12

PAN: AABFK4948A

Kashmir Steel Rolling Mills,
SIDCO Industrial Complex,
Bari Brahmana, Jammu.
(Appellant)

Vs. D. C. I. T.
Central Circle,
Jammu.
(Respondent)

Appellant by : Sh. Tarun Bansal (Adv.)

Respondent by: Sh. Rahul Dhawan (D. R.)

Date of Hearing: 07.08.2017

Date of Pronouncement: 04.09.2017

ORDER

PER T. S. KAPOOR (AM):

This is an appeal filed by assessee against the order of Ld. CIT(A), Ludhiana dated 03.08.2016 for Asst. Year: 2011-12.

2. The only grievance raised by assessee in this appeal is the action of Ld. CIT(A) by which he has confirmed the disallowance of Rs.4,62,630/- being 1/10 of Electric and Machinery Expenses.

3. At the outset, the Ld. AR invited our attention to the assessment order and submitted that Assessing Officer without rejecting books of account or without pointing out any mistake or discrepancies in the books of account arbitrarily disallowed 10% out of Electric and Machinery Repairs which was not warranted. The Ld. AR submitted that before Ld. CIT(A) also it was submitted that the expenses under these

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heads incurred during earlier years were lower but he also upheld the action of Assessing Officer.

4. The Ld. AR in this respect submitted that expenses under both heads during the year under consideration were lower than in the earlier years and moreover in the earlier years no disallowance was made whereas the assessments were completed u/s 143(3) of the Act. The Ld. AR further submitted that books of account of the assessee were also not rejected and the assessment was completed u/s 143(3) of the Act, and therefore also the ad-hoc disallowance was not warranted.

5. The Ld. DR on the other hand, heavily placed his reliance on the authorities below.

6. We have heard the rival parties and have gone through the material placed on record. We find that Assessing Officer made the disallowance @ 1/10 of these expenses by holding as under:

"6. It is further noticed that the assessee has claimed heavy expenses under the following heads:-

Electric repairs	Rs.13,52,689/-
Machinery repairs	Rs.32,73,639/-
Total	Rs.46,26,328/-

During the course of examination of books of accounts the assessee was not able to produce some of the expenditure vouchers in respect of the above. Thus a disallowance @ 1/10 of these expense is being made which leads to an addition of Rs.4,62,630/-"

We find that Assessing Officer has not made any adverse finding regarding these expenses except that expenses were heavy and assessee was not able to produce some of the expenditure vouchers. Whereas we

find that assessee incurred lower expenses during the year under consideration as compared to earlier years as is apparent from the submissions of assessee recorded by Ld. CIT(A) at page 6 of his order. The Assessing Officer has not rejected the books of account and neither had pointed out any discrepancy in the expenses. Therefore the action of Ld. CIT(A) in confirming the action of Assessing Officer is not justified.

The Hon'ble Amritsar Bench in the case of M/s. The Batala Co-operative Sugar Mills Ltd. vide its order dated 3rd July, 2008, under similar facts and circumstances has held that without rejection of books of account ad-hoc disallowance is not warranted. The findings of the Hon'ble Tribunal are reproduced below:

"4. We have heard both the parties and perused the material on record. Admittedly, the assessee's books of account are audited under section 44AB of the Income-Tax Act, 1961 and at the time of assessment, the assessee had produced books of account, documents and various details and information necessary for the purpose of assessment. The assessment was completed u/s 143(3) of the I.T. Act. There is categorical finding given by the Assessing Officer that the assessee has produced books of account in support of the claim of the assessee. The Assessing Officer in its assessment order dated 28.12.2006 had not rejected the books of account of the assessee and there is no finding given by the Assessing Officer in its assessment order that the books of account are not reliable or unverifiable. Hence, it is inferred that the assessee's books of account are not at all rejected. The Assessing Officer cannot make any estimate addition without rejecting the books of account. If the Assessing Officer was to make any addition first of all he was required to reject the books of account which he has failed to do so. Hence, in our opinion, there is no question of making any ad-hoc disallowance towards consumption of bagasse. Accordingly, the addition is unwarranted. The ground taken by the assessee is allowed."

In the present case also the Assessing Officer has noted in para 1 of his assessment order that books of accounts and vouchers were

produced and test checked and at no point of time books of accounts were rejected.

Therefore following the above judicial precedents and in view of the facts and circumstances of the case, the appeal filed by assessee is allowed.

7. In view of the above, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 04.09.2017.

Sd/-

(N. K. CHOUDHRY)
JUDICIAL MEMBER

Dated: 04.09.2017.

/GP/Sr. Ps.

Copy of the order forwarded to:

- (1) The Assessee: *RM*
- (2) The
- (3) The CIT(A),
- (4) The CIT,
- (5) The SR DR, I.T.A.T.,

Sd/-

(T. S. KAPOOR)
ACCOUNTANT MEMBER

True copy

By Order

Gyan Prakash

श्री. नि. पी. सी.
Sr. Private Secretary
आयकर अपील अपीकरण
Income-Tax Appellate Tribunal
अधिवक्ता
Amilsar