

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "B", BANGALORE**

**Before Shri George George K, JM & Shri B.R.Baskaran, AM**

ITA No.468/Bang/2019 : Asst.Year 2014-2015

M/s.Kartikeya Manganese & Iron Ores Private Limited, Kartikeya Nivas, Kruthika Farms Sandur - 583 119. <b>PAN : AACCK0891Q.</b>	v.	The Dy.Commissioner of Income-tax, Circle 6(1)(1) Bengaluru.
(Appellant)		(Respondent)

Appellant by : Sri.K.R.Pradeep, Advocate  
Respondent by : Sri.Priyadarshi Mishra, JCIT-DR

<b>Date of Hearing : 03.11.2020</b>	<b>Date of Pronouncement : 04.11.2020</b>
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**ORDER**

**Per George George K, JM :**

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 28.12.2018. The relevant assessment year is 2014-2015.

2. The issues argued by the learned AR are as follow:

(i) whether the CIT(A) is correct in confirming the disallowance towards environmental expenses to the extent of 50% of the total expenditure amounting to Rs.18,02,292.

(ii) whether the CIT(A) has erred in confirming the disallowance towards travelling and office maintenance expenditure to the extent of 50% out of the total expenditure of Rs.30,10,272 (19,45,509 towards travelling expenses and Rs.10,64,763 towards office maintenance expenses).

We shall adjudicate the above issues as under:

**I. ENVIRONMENTAL EXPENSES**

3. The assessee had debited a sum of Rs.18,02,292 towards environmental expenses. The Assessing Officer had disallowed the same for the reason that the assessee was categorized in C Category, and there was stoppage of assessee's business and hence there was no mining operation. Accordingly, it was held by the A.O. that the expenditure could not be said to be incurred wholly and exclusively for the purpose of business.

3.1 Aggrieved, the assessee preferred an appeal to the first appellate authority. The assessee submitted that the environmental expenses are incurred towards planting trees and saplings, which is essential to maintain the balance in the eco system. It was submitted that as the assessee is in the business of mining, planting trees and saplings are part of Government policy. It was stated that though the mining operation of the assessee are suspended in the interregnum, the assessee was pursuing its legal recourse for revival and it cannot be said that the business of the assessee has been closed, but there is only a lull in the affairs of the mining activity of the assessee.

3.2 The CIT(A) held that there was no closure of business but only a temporary lull in the mining activity of the assessee. The CIT(A) further held that the expenditure incurred is essentially to plant trees and saplings which is required to maintain the eco system near the vicinity of mine of the assessee. However, the CIT(A) disallowed 50% of the total expenditure of Rs.18,02,992, since according to the CIT(A), the assessee did

not furnish any evidence in the form of number of plants purchased, nature of saplings used and the extent to which the areas are planted etc.

3.3 Aggrieved by the order of CIT(A), the assessee has preferred this appeal before the Tribunal. The assessee has filed a paper book comprising of 40 pages inter alia enclosing therein copy of written submissions filed before the CIT(A), reply to the notice received from the Assessing Officer, financial statement for the assessment year 2013-2014 and the judicial pronouncements relied on. The learned AR reiterated the submissions made before the Income Tax Authorities.

3.4 The learned Departmental Representative, on the other hand, submitted that the CIT(A) is justified in restricting the claim of deduction to 50% of the total expenditure because the assessee did not furnish any evidence to prove that it had incurred such expenses. It was contended by the learned DR that the CIT(A) was generous in granting 50% of the total expenses claimed in the absence of proof for incurring such expenses.

3.5 We have heard the rival submissions and perused the material on record. The A.O. disallowed the entire expenditure because according to him the assessee's business had stopped, hence, the expenditure incurred under the above head was not laid out wholly and exclusively for the purpose of business. The CIT(A), on the other hand, was of the view that there was no stoppage but only temporary lull in the business of the

assessee. The CIT(A) further held that the expenditure incurred is for the purpose of assessee's business of mining. However, he disallowed 50% of the total expenditure because according to him, the assessee could not produce the entire proof with regard to the incurring of the said expenses. We noticed that even before the Tribunal the assessee has not produced any material detailing how it had incurred expenditure of Rs.18,02,292 under the head environmental expenses. The A.O. also did not have an occasion to examine in detail the evidence produced as regards incurring of expenses of Rs.18,02,292, since at the threshold itself the A.O. held that the assessee had closed its business and the expenditure claimed as deduction was not for the purpose of business. Therefore, in the given facts and circumstances of the case, we are of the view that the matter needs to be examined by the A.O. afresh. The assessee is directed to produce the details of the expenditure incurred under the head environmental expenses. The A.O. shall afford reasonable opportunity of hearing to the assessee and shall take a decision in accordance with law.

3.6 In the result, ground No.4 is allowed for statistical purposes.

## **II. TRAVELLING EXPENSES AND OFFICE MAINTENANCE EXPENSES**

4. The assessee had debited a sum of Rs.19,45,509 towards travelling expenses and Rs.10,64,763 towards office maintenance expenses in the books of account. The A.O. for

the reasons mentioned in para 4.3 of the assessment order, had allowed the expenditure to the extent it was allowed in the assessment of the previous year (i.e., assessment year 2013-2014) and disallowed balance being Rs.13,87,986 towards travelling expenses and Rs.7,92,931 towards office maintenance expenses, respectively. The relevant finding of the A.O. at para 4.3 reads as follow:-

*“4.3 As regards to Travelling expenses and Other Maintenance Expenses, it is noticed that assessee has debited amounts of Rs.19,45,509/- and Rs.10,64,763/- respectively to the P&L account under the head Other expenses. The assessee has claimed the said expenses against interest income, earning of which does not require such a huge expenditure to be incurred. Though I am of the view that these expenses are not required to be incurred for earning interest income and ought to be disallowed, I am of the reasonable belief that the expenses incurred can be allowed to the extent incurred in earlier year as the same were accepted and allowed during course of assessment proceedings for A.Y.2013-14, and accordingly the excess expenditure claimed in the respective heads for Assessment Year 2014-15 is disallowed u/s 37(1) of the Act and added back to the income returned by assessee and brought to tax. The total disallowance u/s 37(1) of the Act is worked out as under:*

Nature of expense	Amount debited by assessee for AY 2014-15	Amount debited by assessee for AY 2013-14	Excess amount disallowed
Travelling expenses	Rs.19,45,509	Rs.5,57,523	Rs.13,87,986
Office maintenance expenses	Rs.10,64,763	Rs.2,71,832	Rs.7,92,931

4.1 Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal to the first appellate authority. The CIT(A) restricted the disallowance to 50% of the total expenditure. The relevant finding of the CIT(A) reads as follow:

“4.4 I have gone through the facts of the case and the submissions of the appellant. As the AO himself has restricted the expenditure similar to AY 2013-14, there is a need to look at the expenditure claimed in the earlier A.Y. and present A.Y. which is as under:

Nature of expenses	Expenditure claimed and allowed by the AO for the A.Y. 2013-14 (Rs.)	Expenditure claimed by the assessee for the present A.Y. 2014-15 (Rs.)	% of increase claimed by the assessee compared to A.Y.2013-14	Excess expenditure disallowed by the AO in the A.Y. 2014-15 (Rs.)
Travelling expenses	557523	1945500	249%	13,87,986
Office maintenance expenses	271832	1064763	290%	7,92,931

Thus, as could be seen from the above table, there is a steep increase in the claim of expenditure by the appellant for the present A.Y. 2014-15 compared to A.Y. 2013-14. However, the AO restricted the expenditure to the extent of what was allowed during the A.Y. 2013-14, as could be seen in col.no.(2), above. As the assessee himself has admitted in his written submissions before the undersigned that during the year there was a lull in the affairs of the mining activity, then it is not known why the appellant incurred such a huge expenditure? On the other side, the AO also on his part has allowed the same percentage of disallowance, as was allowed in the A.Y. 2013-14, which is also not fair and correct. Hence, after taking into account the overall facts of the case and in order to meet the ends of justice to both ends, I hereby, disallow 50% of the expenditure claimed in respect of Travelling Expenses i.e.  $Rs.1945509 * 50 / 100 = 9,72,754$  and Office maintenance expenses  $Rs.1064763 * 50 / 100 = 5,32,381$ , for the A.Y. 2014-15.”

4.2 Aggrieved by the order of the CIT(A), the assessee has filed this appeal before the Tribunal. The learned AR submitted that the adhoc disallowance made by the CIT(A) is not justified since

both the A.O. and the CIT(A) have not found any defect in the books of account maintained by the assessee.

4.3 The learned Departmental Representative supported the order of the CIT(A). It was submitted that the restriction of disallowance to 50% of the total expenditure is justified in the facts and circumstances of the case as there was no reason for the assessee for incurring such huge expenses when the assessee's business had been temporarily stopped.

4.4 We have heard the rival submissions and perused the material on record. Both the Assessing Officer and the CIT(A) have not examined in detail how the assessee had incurred these expenses. The A.O. was of the view that the assessee had earned only interest income and there was no reason for such a huge expenditure being incurred by the assessee. However, the A.O. allowed the deduction, which is allowed in the previous assessment year, i.e., A.Y. 2013-14. The CIT(A) was of the view that the assessee having admitted that there was a temporary lull in the business affairs of the assessee, there was no necessity for incurring such huge expenditure. Accordingly, he has made adhoc disallowance of 50% of the total expenditure claimed as deduction. We are of the view that the matter needs to be examined by the Assessing Officer *de novo* since both the A.O. and the CIT(A) have not considered the evidence / details, while drawing conclusions on the said issue. Accordingly, this issue is also restored to the files of the A.O. The assessee shall cooperate with the Department and shall furnish necessary material called for. The A.O. shall afford

reasonable opportunity and shall take a decision in the matter in accordance with law. It is ordered accordingly.

4.5 The judicial pronouncements enclosed in the paper book filed by the assessee are not applicable to the facts of this case. In the case of CIT & Anr. v. Blend Well Bottles (P) Ltd. reported in 328 ITR 18 and in the case of CIT v. Anita Jain reported in 182 Taxman 173 – Delhi HC, the issue was whether the assessee was entitled to depreciation, because according to the Revenue, there was stoppage of business, whereas the assessee was claiming that there was only a lull in the business. The Hon'ble Courts held that it was only a case of lull in business and therefore, the assessee was entitled to deduction. In the instant case, the CIT(A) had already held that the business of the assessee had not stopped. Accordingly, CIT(A) allowed 50% of the total expenditure. Therefore, the ratio of the judgments relied on by the assessee in its paper book does not have application to the facts of this case.

4.6 In the result, ground Nos. 5 and 6 are allowed for statistical purposes.

5. Though the assessee had also raised ten grounds, the learned AR had confined his submission to only the above two issues raised in ground No.4, 5 and 6. Hence, other grounds are dismissed as not pressed.



6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 04<sup>th</sup> day of November, 2020.

**Sd/-**  
**(B.R.Baskaran)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(George George K)**  
**JUDICIAL MEMBER**

Bangalore; Dated : 04<sup>th</sup> November, 2020.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A) Kalaburagi
4. The Pr.CIT Gulbarga.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore