

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “SMC” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.288/Ahd/2022  
Assessment Year: 2016-17**

Jyotikaben Ghanshyambhai Acharya, vs. Income Tax Officer,  
25, Symphony Apartment, Ward 1(2)(2),  
Rajasthan Hospital, Ahmedabad.  
Shauhibaug,  
Ahmedabad  
[PAN – APIPA 4619 N]  
(Appellant) (Respondent)

Assessee by : Smt. Jyoti Rizwani, AR  
Revenue by : Shri N.J. Vyas, Sr. DR

Date of hearing : 02.05.2023  
Date of pronouncement : 03.05.2023

**ORDER**

This appeal is filed by the Assessee against order dated 23.06.2022 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2016-17.

2. The Assessee has raised the following grounds of appeal :-

- “1. The assessment order passed u/s.143(3) of IT Act by the Assessing Officer and confirmed by the first appellate authority u/s.250 is bad in law and deserved to be uncalled for.
2. The Assessing Officer as well as first appellate authority has erred in law and on facts in making and confirming the addition of Rs.11,68,530/- by disallowing the expenses and same deserves to be deleted.”

3. The assessee filed return of income for Assessment Year (A.Y.) 2016-17 on 03.07.2016 declaring total income at Rs.3,57,415/- under Section 44AD of the Income Tax Act, 1961 over gross receipt of Rs.15,38,052/-. The case was selected for limited scrutiny under CASS with the reason that whether the cash deposit has been made from disclosed sources. The notice under Section 143(2) of the Act was issued on 03.07.2017 and the same was duly served. In response to the notices, the assessee furnished details from time to time. The assessee was engaged in the business of dealership of Telecom Company in the name and style of Deepjyot Enterprises.

During the assessment proceedings, the Assessing Officer observed that the claim related to expenses of Rs.11,80,637/- for earning the commission income made by the assessee was not justified through corroborative evidences and, therefore, the Assessing Officer made addition of Rs.11,68,530/- as bogus expenses and disallowed the same expenses.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the Assessing Officer has not taken into account that the assessee was a dealer of M/s Telenor India Communications Pvt. Ltd. and with regard to the cash deposit made in the bank accounts was in the nature of business receipts and the said receipts were received from various customers towards mobile recharges, internet recharges and various pack, which was deposited into the bank account daily and then after utilisation of this cash was made for payment for taking such recharges from telephone operator Company. The assessee received commission amounting to Rs.15,38,052/- from the telephone operator Company . The assessee has given the details of expenses to the Assessing Officer as the assessee was not maintaining books of account. The component of expenses related to bank charges were allowed but other expenses were disallowed by the Assessing Officer stating that the material submitted by the assessee was fabricated and the same is not found to be accepted. The Ld. AR submitted that the assessee was not maintaining books of account and it was difficult for the assessee to establish expenses except by furnishing the self made vouchers and bills which was generated by the assessee from time to time. The Ld. AR also relied upon the CBDT Circular No.648 dated 30.03.1993 wherein it was stated that the benefit of adhoc deduction should be granted to 50% of first year commission and 15% of the renewal commission when the respective assessee are not maintaining detailed account for the expense incurred by them.

6. The Ld. DR relied upon the order of the CIT(A). Ld. DR further submitted that the evidences to establish the expenses was not submitted by the assessee before the Assessing Officer as well as before the CIT(A) and, therefore, disallowance of the said expenses as bogus expenses was justified.

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Assessing Officer never disputed that the assessee received commission income from Telenor India Communications Pvt. Ltd. in respect of conducting the business of dealership. While conducting the business, the assessee in the practical parlance incurs expenses such as salary expenses, telephone expenses, travelling expenses, convenience expenses and other miscellaneous expenses. Merely rejecting the same on the ground that self generated bills and vouchers are not verifiable cannot be discarded the actual expenses incurred by the assessee while exercising the business smoothly. Thus, the material purchase which was recorded by the assessee through vouchers is allowable expense. The power and fuel expense was also allowable expenses, salary expenses is also allowable expenses as the assessee is conducting the business of dealership. The travelling expenses, convenience expenses, telephone expenses, miscellaneous expenses, tea and refreshment expenses and the accounts fees expenses are also related to the business of the assessee and, therefore, these expenses should have not been disallowed. These expenses appears to be genuine and from the records submitted by the assessee before the Assessing Officer it appears that the benefit of CBDT circular dated 30.03.1993 should have been taken into account by the Assessing Officer. Therefore, the expenses related to power and fuel expenses, salary expenses, advertisement expenses, travelling expenses, convenience expenses, telephone expenses, miscellaneous expenses, tea & refreshment expenses and accounts fees are allowable expenses and the same should be allowed by the Assessing Officer. Therefore, we are directing the Assessing Officer to allow these components of expenses (thus, expenses related to Rs.1,93,908/- are allowable expenses). In respect of material purchase expenses, since all the vouchers and the related documents were not explained by the assessee before the Assessing Officer as well as before the CIT(A), in the light of CBDT Circular the material purchase expenses should be restricted to 50%.

8. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on this 3<sup>rd</sup> day of May, 2023.

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 3<sup>rd</sup> day of May, 2023**

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*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*