

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'SMC' LUCKNOW**

[Through Virtual Hearing]

BEFORE SHRI T.S. KAPOOR, ACCOUNTANT MEMBER

ITA No.171/Lkw/2018
A.Y. 2014-15

Behari Associates, Shyamganj, Bareilly PAN: AAFFB 3611H	Vs.	Income Tax Officer, Ward 1(1), Bareilly
(Appellant)		(Respondent)

Appellant by	Shri Abhinav Mehrotra, Advocate
Respondent by	Shri Ajay Kumar, DR
Date of hearing	08/07/2021
Date of pronouncement	30/07/2021

ORDER

This is an appeal filed by the assessee against the order of Id. CIT(A), Bareilly dated 12.12.2017.

2. Vide grounds of appeal, the assessee has challenged the order of Id. CIT(A) by which he has confirmed the disallowances made by the Assessing Officer out of loading unloading freight shop expenses by disallowing 5% out of freight and 10% out of other expenses by holding that the assessee was not able to produce voucher for claim of such expenses. Such disallowances were made to cover possible leakages on account of excess claim of expenditure. The Assessing Officer further disallowed an amount of Rs.35,995/- being 25% of telephone expenses and depreciation of car by holding that the assessee must have used a part of these facilities for personal purposes. The Id. CIT(A) upheld the

order of Assessing Officer and therefore, the assessee is before me. The Id. AR at the outset submitted that the books of account were not rejected and Assessing Officer has made the disallowances on adhoc basis without pointing out any discrepancy and without pointing out any possible over claim of expenses. As regards the personal use of facilities the Id. AR submitted that the assessee has been using these facilities only for business purposes and therefore, the disallowances confirmed by Id. CIT(A) are not justified and it was prayed that appropriate relief may be granted to the assessee.

3. The Id. DR, on the other hand, relied on the orders of the authorities below and submitted that the Assessing Officer had made the disallowances after consultation with the counsel of the assessee as the assessee was not able to produce complete vouchers. As regards the personal use of telephone and car the Id. DR submitted that it is not possible that assessee utilized these service only for business purposes, therefore, disallowances sustained by Id. CIT(A) are justified.

4. I have heard the rival parties and have perused the material available on record. I find that the Assessing Officer has disallowed an amount of 5% out of freight expenses and has disallowed 10% out of other expenses. The Assessing Officer has not pointed out any discrepancy in the vouchers and has made a general statement that assessee was not able to produce vouchers. At the same time, it is also correct that assessee did not file complete vouchers and neither these were filed before Id. CIT(A), therefore, I hold that disallowances equivalent to 5% of the freight expenses is justified whereas I restrict the disallowance out of 10% to 5%.

5. As regards the disallowances attributable to personal use of telephone and car, I find that authorities below has made a disallowance

equivalent to 25% of such expenses which is quite on a higher side, therefore, I restrict the disallowance to the extent of 10%.

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

(Order pronounced in the open court on 28/07/2021)

Sd/-
(T.S. Kapoor)
Accountant Member

Aks -
Dtd. 28/07/2021

Copy of order forwarded to:

(1) The appellant	(2) The respondent
(3) Commissioner	(4) CIT(A)
(5) Departmental Representative	(6) Guard File

By order
Assistant Registrar